SUPREME COURT, U. S.

FILED

JAN 26

MICHAEL RODAK, JR.

APPENDIX

IN THE

Supreme Court of the United States

October Term, 1973

No. 73-629

ROBERT J. KOSYDAR, Tax Commissioner of Ohio, *Petitioner*,

v.

NATIONAL CASH REGISTER COMPANY, *Respondent*.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF OHIO

Petition for Certiorari Filed October 10, 1973

Certiorari Granted December 17, 1973

IN THE

Supreme Court of the United States

October Term, 1973

No. 73-629

ROBERT J. KOSYDAR, Tax Commissioner of Ohio, *Petitioner*,

v.

NATIONAL CASH REGISTER COMPANY, *Respondent*.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF OHIO

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THE SUPREME COURT OF THE STATE OF OHIO

NATIONAL CASH REGISTER CO.,
Appellant,

vs.

ROBERT J. KOSYDAR, TAX COMMR.,
Appellee.

No. 72-479

REHEARING

It is ordered by the court that rehearing in this case is denied.

I, THOMAS L. STARTZMAN, Clerk of the Supreme Court of the State of Ohio, do hereby certify that the foregoing entry was correctly copied from the records of said Court, to wit, from Journal No. _____ Page _____

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Supreme Court this 6th day of September, 1973

THOMAS L. STARTZMAN, Clerk.

By _____ Deputy.

THE SUPREME COURT OF THE STATE OF OHIO

NATIONAL CASH REGISTER CO.,
Appellant,

vs.

ROBERT J. KOSYDAR, TAX COMMR.,
Appellee.

No. 72-479

APPEAL FROM THE BOARD OF TAX APPEALS

This cause, here on appeal from the Board of Tax Appeals, was heard in the manner prescribed by law. On consideration thereof, the decision of the Board of Tax Appeals is reversed in part and affirmed in part for the reasons stated in the opinion herein.

It is ordered that an entry issue to the BOARD OF TAX APPEALS to carry this judgment into execution.

I, Thomas L. Startzman, Clerk of the Supreme Court of Ohio, certify that the foregoing entry was correctly copied from the Journal of this Court.

Witness my hand and the seal of the Court this _____ day of _____ 19____

_____Clerk

_____Deputy

TAX FORM No. 946
Prescribed by
The Tax Commissioner

STATE OF OHIO

RECEIVED
OFFICE OF THE TAX COMMISSIONER
CORPORATION TAXES
AUDITS AND ASSESSMENTS UNIT
Date 6-25-68

1968

INTER-COUNTY CORPORATION
RETURN OF TAXABLE PROPERTY

RETURN NO. 6739575 BUSINESS CLASSIFICATION 360

NAME OF CORPORATION (As recorded with the Ohio Secretary of State)	The National Cash Register Company
ADDRESS OF PRINCIPAL ACCOUNTING OFFICE	Main and K Streets TIME LIMIT FOR WAIVER TO 2-8-71
CITY, STATE AND ZIPCODE	Dayton, Ohio 45409
Name of former owner if property was listed by number last year	

STATE OF INCORPORATION	DATE INCORPORATED OR QUALIFIED IN OHIO	OHIO CHARTER NUMBER
Maryland	1926	120783

U. S. CORP. INCOME TAX IDENT. NO.	BUSINESS CODE NUMBER FROM U.S. CORPORATION INCOME TAX RETURN FORM NO. 1120
31-0387920	

THIS RETURN IS TO BE FILED WITH THE TAX COMMISSIONER,
88 EAST GAY STREET, COLUMBUS, OHIO 43215,
BETWEEN FEBRUARY 15 AND APRIL 30, 1968

THE LAW IMPOSES A FIFTY PER CENT PENALTY FOR FAILURE TO FILE A RETURN. IN ADDITION THE LAW IMPOSES A CHARGE OF ONE-HALF OF ONE PER CENT PER MONTH WHEN A RETURN IS DELINQUENT OR PROPERTY HAS BEEN OMITTED.

FILING EXTENSION TO -June 30, 1968 ✓

EXTENSION NUMBER -66

FOR USE OF THE OFFICE OF THE TAX COMMISSIONER—DO NOT WRITE IN SPACE BELOW

CONSOLIDATED RETURN		CLAIM FOR DEDUCTION	9.32	PENALTY ADDTL. CHARGES	% %
Return Check-In	MA	Comptometer Checked		Acceptable As Corrected	
Taxing Districts Verified	MAK	Office Audit		Date	Examiner
Pre-assessment Audit		To Be Field Audited		Acceptable As Filed	
Intangibles Checked	E	Field Audit Completed		Date	Examiner

REMOVE PAGES AT PERFORATIONS. DISCARD UNUSED PAGES. STAPLE PAGES INSIDE COVER FOR FILING.

TRANSCRIPT

1

1968

STATE OF OHIO

TAXPAYER IDENTIFICATION

Form 948
PAGE 1

IF A CONSOLIDATED RETURN IS FILED, A CONSOLIDATING BALANCE SHEET, INCLUDING ALL CONTROLLED SUBSIDIARIES, EXCEPT DEALERS IN INTANGIBLES AND PUBLIC UTILITIES, IS REQUIRED.

NAME OF CORPORATION The National Cash Register Company

This return is made by the above named corporation as holder of fifty-one per cent or more of the common stock of the following:

NAME	ADDRESS	State in which organized	State of organization	Number shares of Outstanding Common Stock	Number owned by reporting corporation
	Schedule Attached				

This corporation or (if this is a Consolidated Return) one or more of its subsidiaries held at fiscal date personal property in the following counties in Ohio:

	COUNTY	TAXING DISTRICT
1.		
2.		
3.	See Recapitulation	
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		

Sufficient description of business operations in each county and taxing district is necessary for classification and use of proper tangible property schedule, especially when manufacturing classification is claimed.

Description of business and Name under which business conducted in each location

Form 945 Manufacturer and Retailer of Business Machines and Supplies

TRANSCRIPT

VOLUME OF BUSINESS

This information is to be furnished, in conformity with the Ohio Franchise Tax requirements, even though not disclosed in the Franchise Tax Report. Figures must cover the twelve-month period preceding Balance Sheet date.

Amount of Ohio business	$ 31,597,972
Entire amount of business done	$ 630,299,530

1968

Form 948
PAGE 3

SCHEDULE 1

STATE OF OHIO

DOMESTIC ANIMALS—AGRICULTURAL PRODUCTS

COUNTY	TOWN DISTRICT	SEED OF ANNUALS				SEED OF PERENNIALS			

1968

STATE OF OHIO

SCHEDULE 2

Form 945
PAGE 3

MACHINERY AND EQUIPMENT

List all property of the following kinds owned and used in business in this state on taxing day:

List of DPE engines, machinery, tools and implements used in Mining and Manufacturing, Mining, Logging and Dry Cleaning Plants, Mining and Lime Supply Plants, Stone and Gravel Plants, Sales and Distribution Rental catalog.

Also list owned items for equipment mentioned herein, if value of equipment is not included in value of machinery, which kind of equipment.

Description of property, that is, must justify manufacturing classification, Use of each item of machinery, Machinery operated by each taxing district.

COUNTY	TAXING DISTRICT	DESCRIPTION OF PROPERTY	[illegible]	[illegible]	LISTED VALUE, dollars only
Darke	Castine Vlg. - 0117	Machinery & Equipment - Plastics	1/1	50	
"	"	" - Wood	1/1	3,316	800
"	"	" - Metal	1/1	1,000	
"	Castine Vlg. Township	" - Wood	1/1	150	
"	"	" - Metal	1/1	10	270
Darke	Union Township	Printing and Binding Equipment	1/1	885	250
Darke	Union Township	Machinery and Equipment	1/1	1,250	3,090
Montgomery	Miami Township	Well Equipment	1/1	4,500	3,060
"	Dayton	Conveyors and Fixtures 0117	1/1	1,150	2
"	"	Powerhouse Equipment	1/1	547	650
"	"	Engineering and Research Equipment	1/1	301	250
"	"	Foundry Machinery and Equipment	1/1	541	700
"	"	Printing and Lithoplate Equipment	1/1	1,000	1,000
"	"	Machinery and Equipment - Other	1/1	15,338	330
"	"	Tools	1/1	128	150
		Total Manufacturing Machinery and Equipment		30,086	990
				19,063	200

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Machinery & Equipment (Leased)
Guernsey County - Cambridge City
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1949 & Prior						
1950						
1951						
1952						
1953						
1954						
1955						
1956						
1957						
1958						
1959						
1960						
1961						
1962	$ 96,796		$ 96,796			
1963	110,641			$ 110,641	77.5	$ 85,750
1964	6,818			6,818	82.5	5,620
1965						
1966						
1967						
	$ 214,255		$ 96,796	$ 117,459		$ 91,370

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Machinery & Equipment (Owned)
Guernsey County - Cambridge City
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1949 & Prior						
1950						
1951						
1952						
1953						
1954	$ 59,424.68		$ 59,424.68	$ ——		
1955						
1956	5,710.62			5,710.62	42.5	$ 2,430
1957	2,841.92			2,841.92	47.5	1,350
1958	13,392.79	$ 2,870.14		16,262.93	52.5	8,540
1959	10,860.98			10,860.98	57.5	6,250
1960	30,929.44	28,251.83		59,181.27	62.5	36,990
1961	12,954.11		526.99	12,427.12	67.5	8,390
1962	16,705.30	5,297.81		22,003.11	72.5	15,950
1963	84,525.25	68,017.09		152,542.34	77.5	118,220
1964	11,228.04	2,802.57		14,030.61	82.5	11,580
1965	251,976.75	13,937.67		265,914.42	87.5	232,680
1966	694,003.77	31,255.94		725,259.71	92.5	670,870
1967		1,560,195.15		1,560,195.15	97.5	1,521,190
	$ 1,194,353.65	$ 1,712,628.20	$59,951.67	$2,847,230.18		$ 2,634,440

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Machinery & Equipment (Owned)
Guernsey County - Cambridge Township
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1949 & Prior						
1950						
1951						
1952						
1953						
1954	$ 12,171.32		$ 12,171.32			
1955						
1956	1,169.64			$ 1,169.64	42.5	$ 500
1957	582.08			582.08	47.5	280
1958	2,743.10	$ 587.86		3,330.96	52.5	1,750
1959	2,224.54			2,224.54	57.5	1,280
1960	6,334.94	5,786.53		12,121.47	62.5	7,580
1961	2,653.26		107.94	2,545.32	67.5	1,720
1962	3,421.57	1,085.09		4,506.66	72.5	3,270
1963	17,312.40	13,931.21		31,243.61	77.5	24,210
1964	2,299.72	574.02		2,873.74	82.5	2,370
1965	51,609.70	2,854.70		54,464.40	87.5	47,660
1966	142,145.35	6,401.82		148,547.17	92.5	137,410
1967		319,558.04		319,558.04	97.5	311,570
	$ 244,667.62	$ 350,779.27	$ 12,279.26	$ 583,167.63		$ 539,600

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Machinery & Equipment (Leased)
Guernsey County - Cambridge Township
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1949 & Prior						
1950						
1951						
1952						
1953						
1954						
1955						
1956						
1957						
1958						
1959						
1960						
1961						
1962	$ 19,826		$ 19,826			
1963	22,662			$ 22,662	77.5	$ 17,560
1964	1,397			1,397	82.5	1,150
1965						
1966						
1967						
	$ 43,885		$ 19,826	$ 24,059		$ 18,710

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Printing & Bindery Equipment Washington C. H.
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1954 & Prior	$ 150,836		$ 113,775	$ 37,061	20.00	$ 7,410
1955	170,299		29,302	140,997	22.50	31,720
1956	173,629		29,703	143,926	25.00	35,980
1957	382,280		65,428	316,852	27.50	87,130
1958	244,753		41,745	203,008	30.00	60,900
1959	308,101		52,583	255,518	36.25	92,630
1960	300,897		51,379	249,518	43.75	109,160
1961	141,973		24,084	117,889	51.25	60,420
1962	26,769		4,415	22,354	58.75	13,130
1963	45,790		7,627	38,163	66.25	25,280
1964	57,716		10,035	47,681	73.75	35,160
1965	97,847		16,859	80,988	81.25	65,800
1966	247,939		42,548	205,391	88.75	182,280
1967		$ 58,443		58,443	96.25	56,250
	$ 2,348,829	$ 58,443	$ 489,483	$ 1,917,789		$ 863,250

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Washington C. H. - Mfg. Equipment
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1954	$ 34,640			$ 34,640	32.50	$ 11,260
1955	9,176			9,176	37.50	3,440
1956	23,918			23,918	42.50	10,170
1957	105,679		$ 7,615	98,064	47.50	46,580
1958	359,748			359,748	52.50	188,870
1959	454,846			454,846	57.50	261,540
1960	191,525			191,525	62.50	119,700
1961	50,034			50,034	67.50	33,770
1962	105,233			105,233	72.50	76,290
1963	18,876			18,876	77.50	14,630
1964	153,466			153,466	82.50	126,610
1965	139,280			139,280	87.50	121,870
1966	50,879			50,879	92.50	47,060
1967		$ 201,394		201,394	97.50	196,360
	$ 1,697,300	$ 201,394	$ 7,615	$ 1,891,079		$ 1,258,150

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Powerhouse Equipment
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1949 & Prior	$ 900,466			$ 900,466	20.0	$ 180,090
1950					22.5	
1951					25.0	
1952					27.5	
1953	25,595		$ 25,595		30.0	
1954					32.5	
1955	35,288		29,957	5,331	37.5	2,000
1956	121,719			121,719	42.5	51,730
1957	167,932			167,932	47.5	79,770
1958	176,578			176,578	52.5	92,700
1959	95,215			95,215	57.5	54,750
1960					62.5	
1961	3,679			3,679	67.5	2,480
1962	7,618			7,618	72.5	5,520
1963	26,362			26,362	77.5	20,430
1964	664			664	82.5	550
1965	1,397			1,397	87.5	1,220
1966	57,142			57,142	92.5	52,860
1967		$ 3,611		3,611	97.5	3,520
	$ 1,619,655	$ 3,611	$ 55,552	$ 1,567,714		$ 547,620

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Engineering & Research
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1949 & Prior	$ 114,801			$ 114,801	20.0	$ 22,960
1950	67,805			67,805	22.5	15,260
1951	52,965			52,965	25.0	13,240
1952	45,558			45,558	27.5	12,530
1953	29,954			29,954	30.0	8,990
1954	56,830			56,830	32.5	18,470
1955	139,776			139,776	37.5	52,420
1956	136,049			136,049	42.5	57,820
1957	277,734			277,734	47.5	131,920
1958	167,273		$ 80,473	86,800	52.5	45,570
1959	82,519		82,519		57.5	
1960					62.5	
1961	53,441	$ 3,380		56,821	67.5	38,350
1962					72.5	
1963	276,903		146,859	130,044	77.5	100,780
1964	354,254			354,254	82.5	292,260
1965	320,503			320,503	87.5	280,440
1966	530,528	8,749	99,917	439,360	92.5	406,410
1967		828,546		828,546	97.5	807,830
	$ 2,706,893	$ 840,675	$ 409,768	$ 3,137,800		$ 2,305,250

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Foundry Equipment
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1953 & Prior	$ 121,585			$ 121,585	20.00	$ 24,320
1954					22.50	
1955	7,234			7,234	25.00	1,810
1956	4,222			4,222	27.50	1,160
1957	15,824			15,824	30.00	4,750
1958	2,489			2,489	36.66	910
1959	6,267			6,267	43.33	2,720
1960	46,000			46,000	50.00	23,000
1961	677,111			677,111	56.66	383,650
1962	16,532			16,532	63.33	10,470
1963	19,561			19,561	70.00	13,690
1964	1,081			1,081	76.66	830
1965	1,350			1,350	83.33	1,120
1966	33,215			33,215	90.00	29,890
1967		$ 48,576		48,576	96.66	46,950
	$ 952,471	$ 48,576		$ 1,001,047		$ 545,270

The National Cash Register Company
Sound Value Schedule - Polishing & Plating Equipment
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1956 & Prior	$ 345,339			$ 345,339	20.00	$ 69,070
1957	8,364			8,364	22.5	1,880
1958	691			691	25.0	170
1959	3,419			3,419	27.5	940
1960	66,748			66,748	30.00	20,020
1961					35.00	
1962					45.00	
1963	1,893			1,893	55.00	1,040
1964	2,058			2,058	65.00	1,340
1965					75.00	
1966	58,869			58,869	85.00	50,040
1967		$ 1,254		1,254	95.00	1,190
	$ 487,381	$ 1,254		$ 488,635		$ 145,690

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Other Mfg. Equipment
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1949 & Prior	$ 8,457,884		$ 99,015	$ 8,358,869	20.0	$ 167,180
1950	262,871		188,217	74,654	22.5	16,800
1951					25.0	
1952	232,063		232,063		27.5	
1953	351,501		10,158	341,343	30.0	102,400
1954	1,107,795	$ 71,596	107,897	1,071,494	32.5	348,240
1955	1,185,149	4,574	50,423	1,139,300	37.5	427,240
1956	1,182,286		62,947	1,119,339	42.5	475,720
1957	2,218,863		26,739	2,192,124	47.5	1,041,260
1958	1,581,113		31,025	1,550,088	52.5	813,800
1959	1,153,176		34,554	1,118,622	57.5	643,210
1960	953,496	2,591	18,761	937,326	62.5	585,830
1961	1,419,025	8,986	32,225	1,395,786	67.5	942,160
1962	1,353,446	33	31,305	1,322,174	72.5	958,580
1963	2,163,053	17,193	124,233	2,056,013	77.5	1,593,410
1964	800,190	7,972	16,001	792,161	82.5	653,530
1965	2,509,365	7,464	38,863	2,477,966	87.5	2,168,220
1966	5,540,276	14,002	1,242,942	4,311,336	92.5	3,987,990
1967		5,365,853	5,231	5,360,622	97.5	5,226,610
	$ 32,471,552	$ 5,500,264	$2,352,599	$ 35,619,217		$ 20,152,180

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Tools
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1954 & Prior	$ 1,754,054		$ 859,267	$ 894,787	20.0	$ 178,960
1955	991,474			991,474	22.5	223,080
1956	1,058,363			1,058,363	25.0	264,590
1957	1,588,008			1,588,008	27.5	436,700
1958	2,002,780			2,002,780	30.0	600,830
1959	1,294,186			1,294,186	36.0	465,910
1960	1,601,728			1,601,728	43.0	688,740
1961	1,357,182			1,357,182	51.0	692,160
1962	1,173,096			1,173,096	58.5	686,260
1963	665,213			665,213	66.0	439,040
1964	569,376			569,376	73.5	418,490
1965	1,151,168			1,151,168	81.0	932,450
1966	906,846			906,846	88.5	802,560
1967		$ 1,034,012		1,034,012	96.0	992,650
	$ 16,113,474	$ 1,034,012	$ 859,267	$ 16,288,219		$ 7,822,420

TRANSCRIPT

1968

Form 945
PAGE 4

SCHEDULE 3 (MANUFACTURING INVENTORIES) STATE OF OHIO

INVENTORIES: MANUFACTURING, REFINING

List inventory of all personal property owned and used in this state in manufacturing or refining and subject to listing on the average value basis for the year or part thereof. Description of Business, Page 1, must justify manufacturing classification. Inventory of finished products not kept or stored at the place of manufacture or in a warehouse in the county where manufactured, must be listed in Schedule 3-B.

Inventory held for sale by a merchant must be listed in Schedule 3-A.

OTHER INVENTORIES LISTABLE AT YEAR-END VALUE MUST BE LISTED IN SCHEDULE 4.

LIST INVENTORY SEPARATELY IN EACH TAXING DISTRICT

COUNTY	Fayette			Guernsey			Guernsey			Montgomery									
TAXING DISTRICT	Union Twp.			Cambridge City			Cambridge Twp.			Dayton									
January	3	345	732	7	498	690	1	535	450	106	469	255							
February	3	562	755	7	823	460	1	602	590	108	555	464							
March	3	609	582	8	813	000	1	805	050	109	997	962							
April	3	523	230	8	803	500	1	804	770	112	163	852							
May	3	581	776	10	493	750	2	149	310	114	928	664							
June	3	353	031	9	734	380	1	997	880	111	505	974							
July	3	356	292	9	805	480	1	891	630	108	809	643							
August	3	176	874	9	404	090	1	926	120	109	662	144							
September	3	020	444	8	854	330	1	772	580	111	601	818							
October	2	997	231	8	456	800	1	752	120	112	456	632							
November	2	910	227	9	334	390	1	911	850	111	727	276	=	1570	361,	603			
December	3	560	519	10	489	660	2	189	430	113	922	774							
Total Value	39	997	873	108	867	350	22	318	580	1333	800	358							
Average Value	3	333	160	9	080	610	1	859	880	109	833	632							
List @ 50%	1	666	580	4	540	310		929	940	54	866	820	— 1514	130	E.C.V.D	290			

LIST INVENTORY SEPARATELY IN EACH TAXING DISTRICT

COUNTY																			
TAXING DISTRICT																			
January																			
February																			
March																			
April																			
May																			
June																			
July																			
August																			
September																			
October																			
November																			
December																			
Total Value																			
Average Value																			
List @ 50%																			

FURNISH COMPLETE INFORMATION BELOW:

Source of Inventory Values Listed: Physical _____ Gross Profits Method _____ Perpetual Stock Records _____

Method of Pricing: Cost _____ Market _____ L.C.M. _____ LIFO _____ Other _____

Are Purchases Accrued at End of Each Month? Copy of Computations Must be Attached to This Return

ADJUSTMENTS	DATE	AMOUNT	DR./CR.	Give dates of all physicals taken during taxable year
To convert to physical				
To convert to "LIFO"				
To reflect reserves				

TRANSCRIPT

Furnish detail showing application of adjustments to monthly averages.

Inventory Sch 3

3,560,519
10,689,660
2,189,450
113,922,374

130,361,003
246,974

114,029

130 361003
112 373474

17987,529

112 258 451
115 023

112,373,474

(Agent's figures)

TRANSCRIPT

1968

STATE OF OHIO **SCHEDULE 3A** (MERCHANDISING INVENTORIES) Form 945 PAGE 5

Merchants are entitled to list their average inventory in Schedule 3-A at 62%. Detailed instructions for the computation are set forth in the Instruction Sheet Form 900-A. SEE SCHEDULE 4 FOR INVENTORIES LISTABLE AT YEAR END VALUE

LIST INVENTORY SEPARATELY IN EACH TAXING DISTRICT

COUNTY	Summit	Stark	Hamilton	Cuyahoga	Lorain	Franklin
TAXING DISTRICT	Akron	Canton	Cincinnati	Cleveland	Lorain	Columbus
January	63 482	78 329	268 993	218 221	59 734	253 507
February	59 379	77 191	270 475	208 099	56 963	247 363
March	58 408	78 795	268 488	207 361	56 980	267 089
April	58 775	78 767	278 412	213 772	58 517	274 618
May	57 760	78 852	274 080	210 867	57 716	263 783
June	58 958	77 343	268 484	213 611	58 473	252 451
July	58 736	81 552	283 795	224 625	61 488	256 119
August	58 952	81 686	283 536	224 275	61 788	265 099
September	58 280	80 932	287 535	214 928	58 681	253 458
October	59 698	84 083	286 753	223 075	60 516	255 566
November	58 616	82 300	334 927	215 934	59 208	263 382
December	60 048	83 533	356 387	237 459	70 695	268 756
Total Values	728 245	969 051	3 334 415	2 690 445	720 353	3 080 191
Average Value	60 687	80 754	286 535	215 295	60 030	257 016
List Value 62%	38 130	51 710	185 560	138 120	37 820	161 920

LIST INVENTORY SEPARATELY IN EACH TAXING DISTRICT

COUNTY	Ross	Montgomery	Clark	Butler	Highland	Portsmouth
TAXING DISTRICT	Chillicothe	Dayton	Springfield	Hamilton	Hillsboro	Portsmouth
January	4 885	375 980	71 515	68 586	2 858	11 489
February	4 081	353 308	67 297	67 219	2 801	10 095
March	4 109	348 605	66 400	67 138	2 797	9 634
April	4 333	366 205	69 753	67 823	2 826	10 174
May	4 284	372 856	71 280	68 665	2 860	10 279
June	4 267	309 088	58 874	70 669	2 945	9 331
July	4 238	312 189	59 465	72 852	3 035	10 523
August	4 112	298 328	56 804	72 557	3 023	11 033
September	4 267	272 385	51 882	75 048	3 127	10 352
October	4 219	300 621	57 261	77 218	3 217	10 597
November	4 331	302 111	57 545	78 016	3 251	11 074
December	4 453	331 445	74 686	88 529	3 773	14 954
Total Values	50 911	4 035 117	762 522	874 270	36 453	129 535
Average Value	4 243	333 593	63 552	72 857	3 038	10 795
List Value 62%	2 870	210 160	40 060	45 900	1 910	6 800

FURNISH COMPLETE INFORMATION BELOW:

Source of Inventory Values Listed: Physical _____ Gross Profits Method _____ Perpetual Stock Records _____

Method of Pricing: Cost _____ Market _____ L.C.M. _____ LIFO _____ Other _____

Are Purchases Accrued at End of Each Month? Copy of Computations Must be Attached to This Return

ADJUSTMENTS	DATE	AMOUNT	DR./CR.	Give dates of all physicals taken during taxable year
To convert to physical				
To convert to "LIFO"				
To reflect reserves				

Furnish detail showing application of adjustments to monthly averages.

TRANSCRIPT

1968

Form 948
PAGE 6

SCHEDULE 3A SUPPLEMENT

STATE OF OHIO

COUNTY	Allen	Richland	Erie	Lucas	Defiance	Jefferson
TAXING DISTRICT	Lima	Mansfield	Sandusky	Toledo	Defiance	Steubenville
January	55 140	89 917	29 336	124 912	3 598	25 930
February	55 918	84 189	27 468	120 603	3 474	24 429
March	56 828	80 963	28 415	129 697	3 736	23 907
April	57 436	87 193	28 447	131 501	3 788	24 126
May	57 436	85 619	28 260	128 407	3 699	24 407
June	55 796	74 408	24 276	131 080	3 776	23 729
July	55 284	75 191	24 532	139 408	4 016	25 807
August	56 449	76 232	24 877	155 031	4 466	26 950
September	58 723	73 383	23 942	161 583	4 655	27 763
October	53 282	77 522	25 423	164 059	4 726	27 291
November	53 087	77 804	25 384	188 696	5 436	27 330
December	65 526	87 977	28 711	231 683	6 632	38 863
Total Values	670 920	971 798	317 065	1 806 660	52 002	320 532
Average Value	55 882	80 983	26 422	150 555	4 333	26 711
Max Value	65 210	87 977	28 711	231 683	6 632	38 863
Min Value	53 210	51 020	14 690	94 850	2 730	16 830

COUNTY	Mahoning	Ashtabula	Trumbull	Muskingham	Cuyahoga	Clark
TAXING DISTRICT	Youngstown	Ashtabula	Warren	Zanesville	Brooklin	Mad River Twp.
January	85 641	24 905	6 931	38 857	57 663	56 893
February	73 912	23 239	4 468	32 261	54 988	18 500
March	82 836	24 090	6 704	32 903	54 946	
April	84 112	25 042	6 969	30 654	56 487	
May	84 238	24 498	6 817	32 748	55 715	
June	82 717	24 055	6 694	31 904	56 444	
July	82 216	24 491	6 816	32 752	59 355	73 326
August	83 077	24 160	6 723	33 647	59 262	94 650
September	83 229	25 348	7 222	30 249	56 801	100 123
October	93 647	26 343	7 498	33 879	58 417	90 200
November	87 905	25 566	7 114	30 367	57 058	72 525
December	102 605	29 [illegible]	8 273	39 403	67 790	191 479
Total Values	1 046 136	302 801	84 229	397 644	674 927	697 696
Average Value	86 761	25 233	7 019	33 137	57 910	58 141
Min Value	73 680	23 900	4 420	20 880	36 480	36 630

COUNTY	Cuyahoga
TAXING DISTRICT	Euclid
January	9 668
February	9 220
March	9 213
April	9 471
May	9 341
June	9 464
July	9 952
August	9 936
September	9 523
October	9 794
November	9 587
December	11 592
Total Values	116 741
Average Value	9 728
Min Value	6 130

TRANSCRIPT

LIST INVENTORY SEPARATELY IN EACH TAXING DISTRICT

1968

STATE OF OHIO

SCHEDULE 3B

Form 945
PAGE 7

List monthly inventories of finished products of a manufacturer not kept or stored at the place of manufacture or in the county where manufactured. SEE SCHEDULE 4 FOR INVENTORIES LISTABLE AT YEAR END VALUE.

LIST INVENTORY SEPARATELY IN EACH TAXING DISTRICT

COUNTY																		
TAXING DISTRICT																		
January																		
February																		
March																		
April																		
May																		
June																		
July																		
August																		
September																		
October																		
November																		
December																		
Total Value																		
Average Value																		
List @ 70%																		

LIST INVENTORY SEPARATELY IN EACH TAXING DISTRICT

COUNTY																		
TAXING DISTRICT																		
January																		
February																		
March																		
April																		
May																		
June																		
July																		
August																		
September																		
October																		
November																		
December																		
Total Value																		
Average Value																		
List @ 70%																		

FURNISH COMPLETE INFORMATION BELOW:

Source of Inventory Values Listed: Physical _____ Gross Profits Method _____ Perpetual Stock Records _____

Method of Pricing: Cost _____ Market _____ L. C. M. _____ LIFO _____ Other _____

Are Purchases Accrued at End of Each Month? Copy of Computations Must be Attached to This Return

ADJUSTMENTS	DATE	AMOUNT	DR./CR.	Give dates of all physicals taken during taxable year
To convert to physical				
To convert to "LIFO"				
To reflect reserves				

TRANSCRIPT

Furnish detail showing application of adjustments to monthly averages.

SCHEDULE 4

1969

STATE OF OHIO 22

SCHEDULE 4—FURNITURE AND FIXTURES—MACHINERY AND EQUIPMENT—SUPPLIES NOT USED IN MANUFACTURING

List in this schedule tangible personal property not specifically required to be listed in Schedules 1, 2, 3, 3-A, or 3-B, such as office furniture and fixtures, machinery and equipment not used in manufacturing, inventories of other than a manufacturer or a merchant, supplies not used in manufacturing, hand equipment, amusement equipment and watercraft of a domestic corporation used exclusively in navigating any of the waters of Ohio. Show book value or "true value" and listed value @ 70% thereof.

Also list below, electrical equipment, generators, dynamos, engines and related machinery and appliances used for generating and distributing electricity for others. Show book value or "true value" and listed value @ 100% thereof.

RENTAL RANTS: Personal property used in the business of preparing, serving and selling food in the form of meals suitable for immediate consumption by the purchaser, shall be listed and assessed at 68%.

COUNTY	TAXING DISTRICT	DESCRIPTION OF PROPERTY	DEPRECIATED BOOK VALUE	LISTING PERCENT	LISTED VALUE	TAXING DISTRICT TOTAL LISTED VALUES
Summit	Akron	Office Furniture & Equipment	$ 200,735	70		$ 140,510
Stark	Canton	"	261,470	70		183,030
Hamilton	Cincinnati	"	441,134	70		308,790
Cuyahoga	Cleveland	"	1 373,157	70		961,210
Lorain	Lorain	"	285	70		200
Franklin	Columbus	"	1 529,011	70		1 070,310
Ross	Chillicothe	"	1,160	70		810
Cuyahoga	Euclid	"	45,809	70		32,070
Clark	Springfield	"	8,391	70		5,870
Butler	Hamilton	"	257,384	70		180,170
Highland	Hillsboro	"	1,698	70		1,190
Portsmouth	Portsmouth	"	38,022	70		26,620
Allen	Lima	"	110,046	70		77,030
Richland	Mansfield	"	191,029	70		133,720
Erie	Sandusky	"	4,661	70		3,260
Lucas	Toledo	"	754,296	70		528,010
Defiance	Defiance	"	2,156	70		1,510
Jefferson	Steubenville	"	3,422	70		2,400
Mahoning	Youngstown	"	335,566	70		234,900
Ashtabula	Ashtabula	"	4,391	70		3,070
Trumbull	Warren	"	1,570	70		1,100
Muskingham	Zanesville	"	74,573	70		52,200
Cuyahoga	Brooklin	"	89,173	70		62,420
Clark	Madriver Twp.	"	846,461	70		592,520
Montgomery	Dayton	"	1 705,703	70		1 193,990
Guernsey	Cambridge Twp.	Office Furniture - Owned	50,880	70		35,620
"	"	" - Leased	4,800	70		3,360
"	" City	" - Leased	23,440	70		16,410
"	" City	" - Owned	248,130	70		173,890
Fayette	Union Twp.	Office Furniture & Equipment	30,710	70		21,500
Montgomery	Dayton	Non Mfg. Mach. and Equipment	7 275,120	70		5 092,580
"	Kettering	"	543,470	70		380,430
"	Oakwood	"	62,775	70		43,940
"	Dayton	Non Mfg. Supplies	179,309	70		125,520
"	"	Office F & F & M & E Supply	26,345	70		18,440
"	"	" Division Supply	19,225	70		13,460
"	"	Training Mach. Data Center	565,330	70		395,730
	Grand Total		$ 17 508,115			$ 12 255,690

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Furniture & Fixtures (Owned)
Guernsey County - Cambridge Township
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1956 & Prior						
1957						
1958						
1959						
1960						
1961						
1962						
1963						
1964	$ 3,491.72			$ 3,491.72	65.0	$ 2,270
1965	6,757.63			6,757.63	75.0	5,070
1966	41,017.68			41,017.68	85.0	34,860
1967		$ 9,132.57		9,132.57	95.0	8,680
	$ 51,267.03	$ 9,132.57		$ 60,399.60		$ 50,880

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TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Furniture & Fixtures (Leased)
Guernsey County - Cambridge Township
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1956 & Prior						
1957						
1958						
1959						
1960						
1961						
1962	$ 2,024		$ 2,024		45	
1963	1,134			$ 1,134	55	$ 620
1964	5,909			5,909	65.0	3,840
1965	447			447	75.0	340
1966						
1967						
	$ 9,514		$ 2,024	$ 7,490		$ 4,800

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Furniture & Fixtures (Leased)
Guernsey County - Cambridge City
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1956 & Prior						
1957						
1958						
1959						
1960						
1961						
1962	$ 9,884		$ 9,884			
1963	5,538			$ 5,538	55.0	$ 3,050
1964	28,849			28,849	65.0	18,750
1965	2,181			2,181	75.0	1,640
1966					85.0	
1967					95.0	
	$ 46,452		$ 9,884	$ 36,568		$ 23,440

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Furniture & Fixtures (Owned)
Guernsey County - Cambridge City
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1956 & Prior						
1957						
1958						
1959						
1960						
1961						
1962						
1963						
1964	$ 17,047.80			$ 17,047.80	65.0	$ 11,080
1965	32,993.12			32,993.12	75.0	24,750
1966	200,262.78			200,262.78	85.0	170,220
1967		$ 44,588.49		44,588.49	95.0	42,360
	$ 250,303.70	$ 44,588.49		$ 294,892.19		$ 248,410

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Non-Manufacturing Equipment (Dayton)
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value
1956 & Prior	$ 2,757,946			$ 2,757,946	20.0	$ 551,590
1957	1,233,678		$ 16,736	1,216,942	22.5	273,810
1958	789,041		219,015	570,026	25.0	142,510
1959	701,424		116,840	584,584	27.5	160,760
1960	812,240		153,355	658,885	30.0	197,670
1961	1,508,096	$ 47,255	11,486	1,543,865	35.0	540,350
1962	242,025	107,495	50,179	299,341	45.0	134,700
1963	1,365,276	245,062	80,630	1,529,708	55.0	841,340
1964	251,747	164,101	54,790	361,058	65.0	234,690
1965	1,378,391	284,707	17,880	1,645,218	75.0	1,233,910
1966	1,510,575	143,363	184,883	1,469,055	85.0	1,248,700
1967		1,850,849	45,493	1,805,356	95.0	1,715,090
	$ 12,550,439	$ 2,842,832	$ 951,287	$ 14,441,984		$ 7,275,120

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Non-Manufacturing Equipment - Kettering
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1966	$ 281,464		$ 67,646	$ 213,818	85.0	$ 181,750
1967		$ 341,276		341,276	95.0	324,210
	$ 281,464	$ 341,276	$ 67,646	$ 555,094		$ 505,960

Moraine Farms Furniture & Fixtures - Sound Value $37,510

Total Kettering - Sound Value $543,470

TRANSCRIPT

The National Cash Register Company
Sound Value Schedule - Non-Manufacturing Equipment (Oakwood)
December 31, 1967

Year Acquired	Balance 12-31-66	Additions	Deductions	Balance 12-31-67	Sound Value %	Sound Value Value
1956 & Prior	$ 98,108			$ 98,108	20.0	$ 19,620
1957	14,769			14,769	22.5	3,320
1958	248			248	25.0	60
1959	19,200			19,200	27.5	5,280
1960	14,654			14,654	30.0	4,400
1961	883			883	35.0	310
1962	978			978	45.0	440
1963	11,308			11,308	55.0	6,220
1964	2,566			2,566	65.0	1,670
1965					75.0	
1966					85.0	
1967		$ 3,029		3,029	95.0	2,800
	$ 162,714	$ 3,029		$ 165,743		$ 44,200

Sugar Camp Furniture & Fixtures - Sound Value $18,575

Total Oakwood Sound Value $62,775

TRANSCRIPT

Form 948
PAGE 10

RECAPITULATION OF LISTED VALUES OF TANGIBLE PERSONAL PROPERTY

1968

RECAPITULATION

STATE OF OHIO

(1)

	COUNTY	TAXING DISTRICT Townships, Special School Districts, Cities and Incorporated Villages Give Complete Names	Domestic Animals & Agricultural Products From Schedule 1 (Nearest $10)	Machinery, Tools & Implements From Schedule 2 (Nearest $10)	Inventories Manufacturing From Schedule 3 (Nearest $10)	Inventories Merchandising From Schedule 3A (Nearest $10)	Inventories From Schedule 3B (Nearest $10)	Furniture & Fixtures, Etc. From Schedule 4 (Nearest $10)	Total Gross Listed Value Taxable
					54,427,990				Total
1	Montgomery	Dayton 102		16 338 530	58 [illegible] 820	210 160		6 837 620	78 [illegible] 950
2	"	Oakwood						43 940	43940
3	"	Kettering						380 430	380430
4	"	Miami Twp.		2210					2210
5	Fayette	Union		1 060 700	1 666 580			21 500	2 748780
6	Guernsey	Cambridge City		1 362 900	4 540 310			190 300	6 093510
7	"	Cambridge Twp.		275160	929 960			38 980	1 243080
8	Summit	Akron				38 130		140 510	178640
9	Stark	Canton				52 710		183 030	234740
10	Hamilton	Cincinnati				185 560		308 790	494350
11	Cuyahoga	Cleveland				138 120		961 210	1 099330
12	"	Euclid				6 130		32 070	38200
13	"	Brooklyn				36 480		62 420	98900
14	Lorain	Lorain				37 820		200	38020
15	Franklin	Columbus				161 920		1 070 310	1 232230
16	Ross	Chillicothe				2 670		810	3480
17	Clark	Springfield				40 040		5 870	45910
18	"	Mad River Twp.				36 630		592 520	629150
19	Butler	Hamilton				45 900		180 170	226070

TRANSCRIPT

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RECAPITULATION OF LISTED VALUES OF TANGIBLE PERSONAL PROPERTY

STATE OF OHIO — RECAPITULATION — 1968

	COUNTY	TAXING DISTRICT (Township, Special School District, City and Incorporated Village — Give Complete Name)	Form Schedule 1 (Nearest $10)	Form Schedule 2 (Nearest $10)	Form Schedule 3 (Nearest $10)	Form Schedule 3A (Nearest $10)	Form Schedule 3B (Nearest $10)	Form Schedule 4 (Nearest $10)	Taxing District Local Value Basis
1	Highland	Hillsboro				1 910		1 190	3 100
2	Scioto	Portsmouth				6 800		26 620	33 420
3	Allen	Lima				35 210		77 030	112 240
4	Richland	Mansfield				52 080		133 720	184 740
5	Erie	Sandusky				16 650		3 260	19 910
6	Lucas	Toledo				94 850		528 010	622 860
7	Defiance	Defiance				2 730		1 510	4 240
8	Jefferson	Steubenville				16 830		2 400	19 230
9	Mahoning	Youngstown				54 660		234 900	289 560
10	Ashtabula	Ashtabula				15 900		126 310 / 3 070	147 210 / 18 970
11	Trumbull	Warren				4 420		1 100	5 520
12	Muskingham	Zanesville				20 880		52 200	73 080
13	Washington	MARIETTA	Omitted						1 450
14									
15									92 719 440
16		TRANSCRIPT							94 187 140
17									
18									
19		Grand Total		19 043 500	61 803 650	1 313 130		18 115 690	94 275 920

Form 948 PAGE 11

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1968

INTANGIBLE PROPERTY SCHEDULES 6-7-8-9-10

STATE OF OHIO

Form 945
PAGE 15

TAXABLE INVESTMENTS—SCHEDULE 6 & 7 BONDS, NOTES, DEBENTURES, CONTRACTS, INVESTMENT TRUST SHARES, DEPOSITS (Outside Ohio bearing more than 4%), PATENT & COPYRIGHT ROYALTIES (Schedule Formula), ANNUITIES, INTERESTS IN TRUST FUNDS. List in Schedule 7, investments yielding income which have not been outstanding for the full calendar year preceding listing date. Name of Corporation, Debtor, Issuer, Trustee	Face Value	PRODUCTIVE INVESTMENTS SCHEDULE 6: % in 1967	PRODUCTIVE INVESTMENTS SCHEDULE 6: Income Yield in 1967	UNPRODUCTIVE INVESTMENTS SCHEDULE 7: Quantities If Any	UNPRODUCTIVE INVESTMENTS SCHEDULE 7: True Value Yield
FEDERAL ELECTION- ENTER TAXABLE INCOME IF FORM 912 IS USED					
TOTAL INCOME YIELD- Schedule 6					
TOTAL TRUE VALUE- Schedule 7					

The corporation must elect to file with its return or with the Tax Commissioner at Columbus, Ohio a verified summary of its Federal Income Tax Return (Form 1120) for the last preceding taxable year, together with a statement of the aggregate amount of income derived from investments taxable under Ohio law, the income from which it is not required to report for federal income tax purposes.

The reporting of income by the above method does not relieve the taxpayer from listing investments not yielding income in Schedule 7 above.

If the amount from investments yielding income as shown on this return differs from the amount from like sources as shown on the Federal Income Tax Return of the Corporation, a statement must be attached explaining this difference.

If the corporation holds investments in its name as nominee, a statement must be attached showing the issue and the name and address of the owner thereof.

DEPOSITS—SCHEDULE 8	
CHECKING ACCOUNTS, SAVINGS ACCOUNTS, CERTIFICATES OF DEPOSITS OR WITHDRAWABLE STOCK OUTSIDE Ohio held on November 27, 1967 and yielding 4% or less	
POSTAL SAVINGS held on November 27, 1967	
TOTAL DEPOSITS	

TAXABLE CREDITS—SCHEDULE 9

LINE NO.	BALANCE SHEET ACCOUNTS	WITHIN OHIO (1)	TOTAL (2)
1	Net Notes and Accounts Receivable - Due within One Year from Date of Inception	49,998,179.24	252,778,892.87
2	Prepaid Expenses	241,552.96	873,960.11
3	Other (designate)		
4	TOTAL RECEIVABLES AND PREPAID ITEMS (Lines 1, 2, 3)	50,239,732.20	253,652,853.98
5	Ohio Allocation (Column 1 ÷ Column 2) 19.80649 %		
6	Notes and Accounts Payable—Due within One Year from Date of Inception		200,234,554.83
7	Accrued Expenses—Excluding Taxes and Assessments		10,936,887.72
8	Other (designate)		
9	TOTAL PAYABLES AND EXPENSES (Lines 6, 7, 8)		211,171,442.55
10	CREDITS (Line 4 less Line 9, Column 2)		42,481,411.43
11	OHIO CREDITS (Line 5 x Line 10)		8,414,076.51

MONEY AND OTHER TAXABLE INTANGIBLES- SCHEDULE 10	
CASH ON HAND OR IN SAFE DEPOSIT BOX (Not on Deposit in Financial Institutions)	590,473.01
UNCOLLECTED CHECKS, JUDGMENTS, NON INTEREST BEARING ACCOUNTS Due after one year from date of inception	
ALL OTHER TAXABLE INTANGIBLES	
NON-TAXABLE BONDS AND SECURITIES REPRESENTING PROCEEDS OF TAXABLE PROPERTY CONVERTED AFTER OCTOBER 31, 1967	
DEPOSITS REPRESENTING PROCEEDS OF TAXABLE PROPERTY CONVERTED AFTER NOVEMBER 27, 1967 TO THE EXTENT HELD ON LISTING DAY	
TOTAL AMOUNT OF MONEY and OTHER TAXABLE INTANGIBLES	590,473.01

TRANSCRIPT 32

Form 945 1968 STATE OF OHIO
PAGE 16

RECAPITULATION

Classified or Intangible Personal Property

CLASSIFIED TAX LIST			TOTAL LISTED VALUE	RATE OF TAX	AMOUNT OF TAX (Base Gross Total Listed Value)
SCHEDULE 6	PRODUCTIVE INVESTMENTS	(Nearest $ 1)		5%	
SCHEDULE 7	UNPRODUCTIVE INVESTMENTS	(Nearest $10)		.002	
SCHEDULE 8	DEPOSITS	(Nearest $10)		.002	
SCHEDULE 9	TAXABLE CREDITS	(Nearest $10)	[illegible]	.002	[illegible]
SCHEDULE 10	MONEY AND OTHER TAXABLE INTANGIBLES	(Nearest $10)	[illegible]	.002	[illegible]
TOTAL CLASSIFIED TAX					[illegible]

DO NOT SEND CHECK TO THE OFFICE OF THE TAX COMMISSIONER

[illegible] to the Treasurer of State of Ohio upon receipt of billing from him.

[illegible] K28 V10

Complete Following Schedule of Leased, Consigned or Warehoused Taxable Property

When taxable personal property not owned by the corporation and not shown on its balance sheet did it hold on leases, consignments, or consignment, under conditions of sale or otherwise, or on the use of which the corporation has based its own property? In the event the taxpayer filing this report is engaged in production on any of this property, please list names in appropriate schedule.

Name of Lessor	Address of Owner	Description	County Where Located	Value - Leased or Consigned (Cost) - Stock in Warehouse

COUNTY AUDITOR(S) MUST BE NOTIFIED OF ALL CHANGES IN VALUATION OF REAL ESTATE OWNED OR OCCUPIED.

DECLARATION

I declare under penalties of perjury that this return (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete return and report.

6-12-68
Date

Director of Taxes and Group Benefits (Corporate Officer) J. F. Martin
Title Signature of Officer

If this return was not prepared by your own personnel, show here name and address of firm or individual who prepared it.

Name _____ Address _____

- 1 -

Item 1. Number of Equity Security Holders

Title of class	Number of holders (December 31, 1967)
Common stock with $5 par value	26,055
Preferred stock cumulative with $5 par value	None

Item 2. Increases and Decreases in Outstanding Equity Securities

	Number of common shares ($5 par value) issued and outstanding
Balance, January 1, 1967	8,793,963
Options exercised by employees from January 16, 1967 through December 26, 1967 under Company's stock option plan for key personnel	47,200
Issued in connection with acquisition of February 28, 1967 of the assets of The Microcard Corporation (Note)	65,000
Issued in connection with acquisition of August 22, 1967 of 70% of the assets of Erlanger and Galinger, Inc. (Note)	9,140
Issued on conversion of 4.25% Subordinated convertible debentures	4,330
Balance, December 31, 1967	8,919,633

Note: These shares were not registered under the Securities Act of 1933 as the issue of such shares to the Stockholders of the Microcard Corporation and the Stockholders of Erlanger & Galinger, Inc. is exempt under Section 4(2) of that Act as not involving any public offering.

Item 3. Parents and Subsidiaries of Registrant

Parents of the registrant - None

Subsidiaries of registrant	The state or other sovereign power under the laws of which organized	The percentage of voting securities owned, or other basis of control, by its immediate parent
THE NATIONAL CASH REGISTER COMPANY		
Business Systems, Incorporated	California	100
The Microcard Corporation	Wisconsin	100
NCR International Finance Corporation	Delaware	100
Maatschappij Vennootschap National Easregisters voorheen Cord H. van Erk H. V. Het Easregisterhuis	Netherlands	82
	Netherlands	100
NACAR of Pennsylvania, Inc.	Pennsylvania	100
NACAR Technical Center (Dayton), Inc.	Ohio	100
NACAR of San Diego, Inc.	Delaware	100
NACAR of Viroqua, Inc.	Delaware	100
NACAR of Washington, Inc.	Delaware	100
La Nationale Caisse Enregistreuse (Afrique)	Algeria	100

TRANSCRIPT

THE NATIONAL CASH REGISTER COMPANY (Cont'd)

NCR Argentina SAIC	Argentina	100
The National Cash Register Co. Pty. Limited	Australia	100
National Registrier-Kassen Gesellschaft m.b.H.	Austria	100
Caisses Enregistreuses "National" S.A.	Belgium	100
NCR do Brasil S.A., Caixas Registradoras, Maquinas de Contabilidade e Equipamentos Electronico "National"	Brazil	100
The National Cash Register Company of Canada, Limited	Canada	100
Cajas Registradoras Nacional S. A. C.	Chile	100
The National Cash Register Company of Colombia, S. A.	Colombia	100
The National Cash Register Company of Cuba, S. A.	Cuba	100
NCR Dominicana C. por A.	Dominican Republic	65
Oy The National Cash Register Company of Finland AB	Finland	100
NCR La Nationale Caisses Enregistreuses	France	100
La Nationale Caisses Enregistreuses (Tunisie) S.A.	Tunisia	100
National Registrier Kassen G.m.b.H.	Germany	100
Cajas Registradoras National, Sociedad y Compania, Limitada	Guatemala	50
The National Cash Register Company (Hong Kong) Limited	Hong Kong	100
The National Cash Register Company (Iraq) W. L. L.	Iraq	85
The National Cash Register Company (Jamaica) Limited	Jamaica	100
The National Cash Register Company (Japan) Ltd.	Japan	70
The National Cash Register Company (Singapore) Limited	Singapore	100
The National Cash Register Company (Malaya) Limited	Malaya	100
The National Cash Register Company de Mexico S. A.	Mexico	100
The National Cash Register Company de Baja California S. A.	Mexico	100
N. C. R. Industrial de Mexico S. A. de C. V.	Mexico	65
La Nationale Caisses Enregistreuses S. A.	Morocco	100
The National Cash Register Company (N. Z.) Limited	New Zealand	100
The National Cash Register Company (West Africa) Limited	Nigeria	100
National Kassa Register A/S	Norway	100
Compania de Cajas Registradoras Nacional de Panama, S. A.	Panama	100
NCR del Peru S. A.	Peru	100
Erlanger and Galinger, Inc.	Philippines	70

TRANSCRIPT

THE NATIONAL CASH REGISTER COMPANY (Cont'd)

The National Cash Register Company of Portugal	Portugal	100
The National Cash Register Company of Puerto Rico	Puerto Rico	100
The National Cash Register Company C. A. (Private) Limited	Rhodesia	100
The National Cash Register Company, S. A. (Proprietary) Limited	South Africa	100
Cajas Registradoras National S. A.	Spain	100
The National Cash Register Company (Sudan) Limited	Sudan	100
The National Cash Register Company of Sweden Aktiebolag	Sweden	100
"National" Registrierkassen A. G.	Switzerland	100
The National Cash Register S. A.	Tangier	100
"NCR" National Nakayyit Kasa Anonim Sirketi	Turkey	70
The National Cash Register Company, Limited	United Kingdom	100
National Cash Register (Leasing) Limited	United Kingdom	100
The National Cash Register Company (Cyprus) Limited	Cyprus	60
The National Cash Register Company (Ghana) Limited	Ghana	100
Frank Stevenson & Son (Manchester) Limited	United Kingdom	100
James McKelvie & Sons Ltd.	United Kingdom	100
NCR/Elliott Computer Workshops Ltd.	United Kingdom	50
Express Travel & Transport Co. Ltd.	United Kingdom	100
Knights Export Consultants Ltd.	United Kingdom	100
Robert Ulrich Ltd.	United Kingdom	100
Travel Deposit Ltd.	United Kingdom	100
The National Cash Register Company (Manufacturing) Limited	United Kingdom	100
The National Cash Register Company, Sociedad Anonima	Uruguay	100
The National Cash Register Company of Venezuela, Compania Anonima	Venezuela	100

Note - The accounts of all foreign subsidiaries except Cuba listed above are included in the statement of consolidated financial position at December 31, 1957 and in the consolidated statement of income for the year ended December 31, 1957.

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TAX FORM NO. 986
PRESCRIBED BY THE TAX COMMISSIONER.

STATE OF OHIO

CLAIM FOR DEDUCTION FROM BOOK VALUE

(See Instructions on Back)

Made by The National Cash Register Company

Address Main and K Streets, Dayton, Ohio 45406

Date JUN 12 1968 19__

The undersigned taxpayer, having listed tangible personal property used in business and credits on Tax Form No._____ at the book value thereof hereby makes claim for the assessment of such property, or portions thereof as herein stated, on basis of its true value, instead of the book value, less book depreciation, as listed in the tax return.

TAXING DISTRICT	TANGIBLE PROPERTY	SCHEDULE 1	SCHEDULE 2	SCHEDULE 3	SCHEDULE 4	TOTALS
1. Dayton, Ohio Montgomery County	Book Value			2,159,035		
	Deduction Claimed			2,159,035	@50 1079520	
2. Dayton, Ohio Montgomery County	Book Value			1,753,295		
	Deduction Claimed			874,025	@50 437010	
3.	Book Value					
	Deduction Claimed					
4.	Book Value					
	Deduction Claimed					
5.	Book Value					
	Deduction Claimed					
TOTALS	Book Value			3,912,330		
	Deduction Claimed			3,033,060		
	Claimed True Value			879,270		

TAXING DISTRICT	ITEMIZE	REMARKS
CURRENT CREDITS Bank Accounts, Notes and Other Receivables	Book Value	
	Deduction Claimed	
	Claimed True Value	

Claims for any deduction from net book value of accounts receivable or depreciated book value of personal property may not be considered or allowed unless made in writing by the taxpayer at the time of making return. Such claim should be accompanied by detailed information in support thereof.

No. 1. Another Taxpayer claims that inventories held for export in the average amount of $2,159,035 are not subject to taxation in this state by virtue of the provisions of the constitution of the United States, Article 1, S 10, Clause 2. Assessed value @ 50% is $1,079,520. This claim is not deducted from schedule 3.

1753,295 Rebates, Dec.

No. 2. Another Taxpayer claims that account 22530 in the amount of $1,735,295 consists of idle, obsolete, unsalable inventory and that the true value is 10% of original cost of $8,792,704 or $879,270; therefore, inventory is overstated $874,025. Assessed value @ 50% $437,010. This claim is not deducted from schedule 3.

Taxpayer Value 874,644,820
Taxpayer claim 151,452,800
County Value assessed 531,507,910

claim denied by HOS 3/27/68

1079520
437010
151,452,800

L. V. Richardson

The National Cash Register Company
Claimant

By [signature]
Director of Taxes and Group Benefits
(Corporate Officer)

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TAX FORM 931
PRESCRIBED BY THE
TAX COMMISSIONER

BALANCE SHEET FOR CORPORATIONS
1968

STATE OF OHIO

The National Cash Register Company, Main and K Streets, Dayton, Ohio

INSTRUCTIONS

GENERAL INSTRUCTIONS:

1. It is mandatory that a completed Balance Sheet be submitted by every Corporation required to file Franchise Form F-1 or Personal Property Forms 930 or 945.
2. In addition to a separate Balance Sheet for each corporation, there must be submitted a consolidating Balance Sheet where the corporation is authorized to file a Consolidated Personal Property Tax Return.
3. File this Form with Personal Property Tax Form 930 or 945 between February 15 and April 30 annually, or within the filing time as extended. In the event a Personal Property Tax Return is not required, mail this Form to the Office of the Tax Commissioner, 68 East Gay Street, Columbus, Ohio 43215.
4. The fiscal year and employed in the preparation of this Balance Sheet shall coincide with the fiscal year end used for Federal Income Tax with the following qualifications:
   (a) Any corporation required to make a return on the basis of a fiscal year and who has not been engaged in business in Ohio for a full year of twelve months preceding such fiscal year end shall use the date otherwise prescribed by law (December 31).
   (b) If your fiscal year ends between January 1 and March 31, use the fiscal year terminating in the same calendar year in which the return is required to be filed.
   (c) If your fiscal year ends after March 31, use the fiscal year terminating in the calendar year next preceding the year in which the return is required to be filed.
5. Where the space provided on this Form is inadequate, supplemental exhibits must be attached.

SPECIAL INSTRUCTIONS:

1. Tangible Property shall be allocated within and without Ohio on the basis of its physical location at Balance Sheet date.
2. Intangible Property shall be allocated within and without Ohio on the basis of its taxable situs.
   (a) DEPOSITS—Deposits of a domestic corporation must be allocated within Ohio unless the withdrawing officer has his office without Ohio and the funds are used exclusively in business without Ohio. Deposits of a foreign corporation must be allocated within Ohio when the withdrawing officer has his office in Ohio and the funds are used exclusively in business in Ohio. The state in which the deposits are physically located is not an operating factor as exclusive use and withdrawability are the tests used in determining taxable situs. (Tax Commissioner's Rule TX-41-18.)
   (b) RECEIVABLES—Domestic corporations must allocate notes and accounts receivable within Ohio except when they result from (1) sales made or services performed by an officer or agent without Ohio or (2) shipments made from a stock of goods located without Ohio. Foreign corporations must allocate notes and accounts receivable within Ohio when they result from (1) sales made by an officer or agent located in Ohio and shipped from a stock of goods located within Ohio, or (2) the sale by an officer or agent located in Ohio of services performed in Ohio, and (3) the officer or agent has power to deal in a managerial capacity with such accounts and notes receivable and with the funds, in whole or in part, derived therefrom. (Tax Commissioner's Rule TX-41-19.)
   (c) INVESTMENTS—Investments used in business (not held in trust) acquire a tax situs in a state other than that in which it was incorporated when arising out of business and used in business in such other state. Such investments shall be deemed to arise out of business in a state other than that in which the corporation was incorporated when made, created, or acquired, in the course of repeated transactions of the same kind, conducted from an office of the corporation in such other state, and
      (1) Representing obligations of persons residing in such other state, or
      (2) Secured by property located in such other state, or
      (3) When an officer or agent of the corporation at its office in such other state, has authority, in the course of the corporation's business, to receive or collect the income thereon or the principal, if any, or both, when due, or to sell and dispose of the same.

   Where investments include fifty-one per cent or more of the total outstanding common stock of a subsidiary corporation, such stock must be allocated within and without Ohio in accordance with the physical location of the property belonging to or used by the subsidiary. Physical property generally will include all real and tangible personal property, but is not limited thereto.
   (d) DEFERRED AND PREPAID ITEMS—Tax situs follows domicile of owner except when the right acquired thereby relates exclusively to the business transacted in a state other than that where the owner resides, or to the property used in such business.

TRANSCRIPT

1968

Name The National Cash Register Company Ohio Charter No. 120783

Address Main and K Streets, Dayton, Ohio 45406

Personal Property Tax
Return Filed: ..... County Inter-County ☒ Not Required ☐

BALANCE SHEET AS OF December 31, 19 67

SCHED. NO. #	ASSETS		WITHIN OHIO NET BOOK VALUES	TOTAL* NET BOOK VALUES
	1 CASH AND DEPOSITS			
4,9	a) In Financial Institutions		$ 4,438,115.84	$ 7,271,026.25
10	b) Not in Financial Institutions		590,472.01	7,596,085.91
	2 NOTES AND ACCOUNTS RECEIVABLE			
9	a) Due within one year from date of inception ..... Gross $	50,662,056.07		
	Less allowance for doubtful accounts	663,876.83	49,998,179.24	124,871,156.09
4,7,10	b) Due after one year from date of inception—net			
	3 INVENTORIES			
3	a) Manufacturing		112,258,451.60	151,133,340.95
24,25	b) Merchandising		2,690,530.00	31,972,535.20
3	c) Supplies—Manufacturing		135,023.36	135,023.36
4	d) Supplies—Other		179,909.05	179,909.05
2,3,4	e) Consigned			
24,25	f) Other Inventory			
	4 INVESTMENTS			
4,7,10	a) Taxable Bonds and other investments		—	51,915,896.92
—	b) Stocks and other non-taxable investments		1,878,031.62	4,963,656.96
—	5 LAND			
		GROSS COST		
	6 BUILDINGS	$ 36,964,422.86	21,319,050.95	42,996,745.98
	7 MACHINERY & EQUIPMENT			
—	a) Taxed as Real Estate			
2,4	b) Taxed as Personal Property	43,090,754.66	22,634,439.48	47,523,947.47
4	8 FURNITURE & FIXTURES	39,512,534.11	14,754,277.96	98,650,460.44
2,4	9 LEASED EQUIPMENT			
—	10 POLLUTION CONTROL Facilities (a)		57,159.00	57,159.00
—	11 PATTERNS, JIGS, DIES & DRAWINGS	44,510,810.75	7,834,261.74	7,834,261.54
	12 CONSTRUCTION IN PROGRESS			
—	a) Real Property			
2,4	b) Personal Property capable of use			
—	c) Personal Property not capable of use			
2,4	13 SMALL TOOLS	11,488,843.22	11,325,204.85	15,341,560.89
	14 VEHICLES & AIRCRAFT			
—	a) Registered or Licensed	2,480,368.07	1,196,114.75	2,517,466.39
2,4	b) Other			
	15 OTHER ASSETS			
	a) Prepaid expenses		241,552.96	873,960.11
9	b) Deferred charges		889,992.08	5,256,082.09
—	c) Patents & Copyrights		250,000.99	250,000.99
4	d) Subsidiary Investment			76,849,444.77
	e)			
	f)			
	g)			
	16 TOTAL ASSETS (Lines 1 through 15)		$ 252,590,168.48	$ 678,169,118.36

* Omit Total Assets Column when all assets are allocated to Ohio.
# Personal Property Tax Return schedule references are not all-inclusive but are for guidance only. See Form 930-A—Instructions.
(a) Certified Air and/or Water Pollution Control Facilities.

SCHED. NO. #	LIABILITIES AND NET WORTH		TOTAL
9	17 NOTES AND ACCOUNTS PAYABLE:	Due Within One Year from Date of Inception	$ 43,740,312.92
9	18 ACCRUED EXPENSES	(Detail in Exhibit "B")	46,087,026.01
—	19 NOTES AND ACCOUNTS PAYABLE:	Due After One Year from Date of Inception	234,206,200.00
—	20 BONDS AND MORTGAGES		18,495,000.00
—	21 OTHER LIABILITIES	(Detail in Exhibit "B")	21,763,638.87
—	22 DEFERRED CREDITS	(Detail in Exhibit "B")	
—	23 PREFERRED STOCK		
—	24 COMMON STOCK		44,598,165.00
—	25 PAID-IN SURPLUS		146,113,055.29
—	26 EARNED SURPLUS-UNDIVIDED PROFITS		122,065,720.27
—	27 SURPLUS RESERVES	(Detail in Exhibit "B")	
—	28 OTHER (Designate)		
—	29 TOTAL LIABILITIES & NET WORTH	(Lines 17 through 28)	$ 678,169,118.36

Exhibit "A" - RECONCILIATION OF BALANCE SHEET LINE NUMBERS 3, 7b, 8, 9, 12b, 13 and 14b.

Where values set forth in the Balance Sheet are not carried forward in the full amount to taxable schedules in the Corporation Return of Taxable Personal Property, such differences set forth in Column 4 of this exhibit must be fully supported in Column 5 or in supplemental schedules.

(1) B/S LINE NO.	(2) BOOK VALUE	(3) VALUE REPORTED	(4) DIFFERENCE	(5) RECONCILE DIFFERENCES
3A	$ 130,246,974.60	$ 112,258,451.60	($17,988,523.00)	Life Reserve
7B	22,634,439.68	30,127,602.00	7,493,162.52	
8	14,754,277.96	17,279,875.00	2,525,597.04	
13	11,325,206.85	7,822,420.00	(3,502,786.85)	
7B		141,518.00	141,518.00	Leased Machinery and Equipment
8		28,240.00	28,240.00	Leased Furniture and Fixtures

Exhibit "B" - ITEMIZATION OF BALANCE SHEET LINE NUMBERS 18, 21, 22 and 27.

List here a descriptive breakdown of items making up values reflected on the Balance Sheet Lines indicated.

(1) B/S LINE NO.	(2) ITEMIZATION	(3) AMOUNT
18	Maintenance Agreements and Guaranteed Service	$ 35,788,237.12
18	Accrued Interest Payable	1,856,757.47
18	Accrued Salary and Wage Payments	4,438,881.37
18	Commission Payable	3,199,451.01
18	Miscellaneous	1,603,697.04
21	Real and Personal Property Taxes	6,643,949.35
21	F.I.C.A. and Income Tax Withheld	2,254,525.22
21	All Other Taxes	5,829,782.98
21	Contingencies	960,417.00
21	Federal Income Tax	3,652,104.40
21	Miscellaneous	2,422,859.72

TRANSCRIPT

Exhibit "C" - EXEMPTED ASSETS (FRANCHISE)

The total of exempted assets set forth in this exhibit may be deducted from total net worth in the computation of the net value of stock in Exhibit "D" and excluded in the computation of the property fraction in Exhibit "E" when such assets are recorded on the books of record and are reflected in the total value of assets on Balance Sheet Line 16.

Air and Water Pollution Control Facilities, located in Ohio, are exempted assets when the corporation holds a valid certificate. Air or water control facilities, located without Ohio, cannot be listed in Exhibit "C" as exempted assets.

LINE NO.	ITEM	(1) OHIO	(2) TOTAL
1	GOODWILL	$	$
2	ABANDONED PROPERTY (Attach explanation)		
3	APPRECIATION.....(Attach explanation)		
4	OHIO AIR AND WATER POLLUTION CONTROL FACILITIES	57,179.00	57,179.00
5	TOTAL EXEMPTED ASSETS (Carry total of Col. 2 to Exhibit "D," Line 5)	$ 57,179.00	$ 57,179.00

Exhibit "D" - NET VALUE OF STOCK (FRANCHISE)

All corporations must complete this exhibit.

LINE NO.	ITEM	TOTAL
1	CAPITAL STOCK (Do Not Include Treasury Shares) (From Balance Sheet Lines 23 and 24)	$ 44,598,165.00
2	SURPLUS (From Balance Sheet Lines 25 and 26)	268,178,775.56
3	ADD RESERVES (Except Valuation Reserves Against Specific Assets)	
4	TOTAL NET WORTH (Carry to Form F-1, Line 1)	$ 312,776,940.56
5	LESS EXEMPTED ASSETS (Carry to Form F-1, Line 2)	57,179.00
6	NET VALUE OF STOCK (Carry to Form F-1, Line 3)	$ 312,719,761.56

Exhibit "E" - PROPERTY AND BUSINESS ALLOCATION (FRANCHISE)

Corporations having property or business allocated within and without Ohio shall complete this exhibit in arriving at the average Ohio percentage. Business shall be allocated on a destination basis. See Instruction Sheet Form 930A or Section 5733.05 R. C.

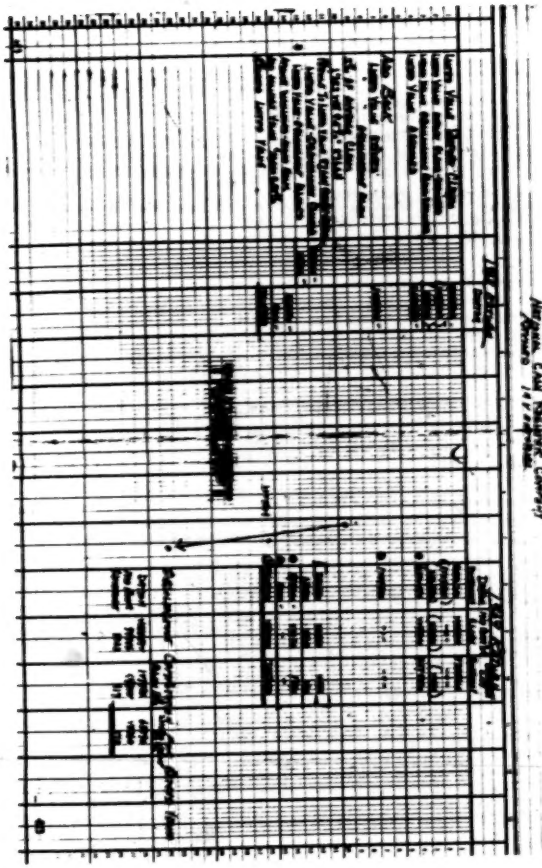
Corporations having property and business in Ohio only, need not complete Exhibit "E" as the net value of stock on Line No. 6 of Exhibit "D" shall be the taxable value and shall be carried forward to Form F-1, Line 5.

LINE NO.	ITEM	(1) OHIO	(2) TOTAL	(3) OHIO PERCENTAGE
1	PROPERTY (B/S Line 16 less Exhibit "C," Line 5)	$ 252,590,168 ÷	$ 678,169,118 =	37.2590 %
2	BUSINESS	$ 31,597,972 ÷	$ 630,299,530 =	5.01317 %
3	TOTAL PERCENTAGE (Line 1 plus 2)			42.25907 %
4	AVERAGE PERCENTAGE (1/2 Line 3) (Carry to Form F-1, Line 4)			21.12954 %

Exhibit "F" - QUESTIONNAIRE

1. Depreciation of Machinery & Equipment: Method STD. Life VBS
2. Net Income after Federal Income Taxes $ 26,233,000 1967, $ 27,219.00 1966
3. Total Number of Shares Outstanding (Exclusive of Treasury Shares) Com Pfd
4. Most Recent Sales Price, per common share (Tax Commissioner's Rule TX-41-10) $
   (Answer only when the shares are not income-producing)
5. Total Accumulated Dividends on Preferred Shares as of January 1, 1968 $

TRANSCRIPT



NATIONAL CASH REGISTER COMPANY
REVISED INVENTORIES
1968 AUDIT

DAYTON

	AMOUNT VALUE	LISTED VALUE @ 50%
AVERAGE INVENTORY - BOOKS CLAIMED	$2,333,000	$4,666,000
LESS 90% CLAIM - REPORTS	($1,650,000)	($3,300,000)
" " " @ RECONCILIATION	($ 300,000)	($ 600,000)
AVERAGE INVENTORY AS REVISED	$ 383,000	$ 766,000
ADD BACK		
AMOUNT VALUE EXCLUDED	$1,317,000	$2,634,000
COMPUTATION - RECONCILIATION		
AMOUNT VALUE - 90% CLAIM	ITEMIZED DETAIL	
ALLOW 5% OF AVERAGE AMOUNT	DETAIL	
AMOUNT CLAIMED	ITEMIZED DETAIL	
AMOUNT ALLOWED		
ADD BACK TO AVERAGE	TOTAL	TOTAL	TOTAL	TOTAL
ADD SOURCE VALUE				

TRANSCRIPT

VS

Form 947

STATE OF OHIO
DEPARTMENT OF TAXATION

INTER-COUNTY CORPORATION CORRECTION NOTICE

68 PERSONAL PROPERTY TAX RETURN FILED BY: National Cash Register Company

PRELIMINARY AMENDED [ ] FINAL [X]

COUNTY	TAXING DISTRICT	TYPE	ITEM	LISTED VALUES AMENDED	LISTED VALUES PREVIOUSLY ASSESSED	INCREASE	DECREASE
MONTGOMERY	DAYTON	3	INVENTORY	69 679 910 /	63 150 910 /	1 471 700	
ASHTABULA	ASHTABULA	4	LEASED EQUIPMENT	116 240 /	3 070 /	113 170	
WASHINGTON	MARIETTA	4	"	1 820 /	-0-	1 820	
	Corrected - Final assessment certificate to be issued accordingly.						
	.....						
						1 616 370 /	

TRANSCRIPT

EXPLANATION: DISALLOW IN FULL EXPORT INVENTORY CLAIM
DISALLOW IN PART INVENTORY OBSOLESCENCE CLAIM
ADD LEASED EQUIPMENT

CLAIM
[X] ALLOWED IN PART
[ ] ALLOWED IN FULL
[ ] DISALLOWED

AUDIT: 1 [ ] 2 [ ] C [X]

EXAMINER: C. L. GREEN

DATE: 10-30-70

DATE ASSESSED: 11-9-70

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(The amount of Ohio personal property tax assessed pursuant to this certificate was $49,872.90).

STATE OF OHIO
DEPARTMENT OF TAXATION

INTER-COUNTY CORPORATION
TANGIBLE PERSONAL PROPERTY

PRESCRIBED TAX FORM NO. 947-F

TAXPAYER'S NAME	ACCOUNT NUMBER	DATE	RETURN YEAR
NATIONAL CASH REGISTER COMPANY MAIN & K STREETS DAYTON, OHIO 45409	6739515	1/29/71	1968

FINAL ASSESSMENT CERTIFICATE OF VALUATION

TO THE AUDITOR - This is to certify that the Tax Commissioner has, pursuant to Sec. 5711.36, R.C., fixed the FINAL assessed value of tangible personal property of this company and apportioned it to your county as set forth below.

CO.	TAXING DISTRICT	TOTAL FINAL ASSESSED VALUE	TOTAL PREVIOUSLY ASSESSED VALUE	DEFICIENCY	PENALTY AND ADD. CHARGES	TOTAL DEFICIENCY	EXCESS
57	DAYTON	78,014,300	76,536,600	1,477,700		1,477,700	
	PER FINDINGS OF FIELD AUDIT CLAIM FOR DEDUCTION ALLOWED IN PART THIS FINAL ASSESSMENT AUTHORIZED BY THE TAX COMMISSIONER ON JANUARY 29, 1971 AMENDS ASSESSMENT OF AUGUST 7, 1968						

ALL OTHER VALUES PREVIOUSLY ASSESSED REMAIN UNCHANGED

NOTICE TO TAXPAYER - In the event of any objection to any deficiency or excess, Petition on Appeal (Sec. 5717.02 R.C.) must be filed with the Board of Tax Appeals within thirty days after mailing of this notice. Remit to County Treasurer upon receipt of bill based on values above.

TAX COMMISSIONER'S COPY

TRANSCRIPT

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TAX COMMISSIONER

BEFORE THE BOARD OF TAX APPEALS
DEPARTMENT OF TAXATION
STATE OF OHIO

THE NATIONAL CASH REGISTER COMPANY,
Main & K Streets,
Dayton, Ohio 45409,

Appellant,

vs.

ROBERT J. KOSYDAR,
Tax Commissioner of Ohio,
68 East Gay Street
Columbus, Ohio 43215,

Appellee.

Case No. 71-020330

NOTICE OF APPEAL

Pursuant to Section 5717.02, of the Revised Code of Ohio, The National Cash Register Company, hereinafter "NCR", gives notice of its appeal to the Board of Tax Appeals, from a Final Assessment Certificate of Valuation for Montgomery County, issued with respect to Ohio Personal Property tax return year 1968, and bearing the date of January 29, 1971. A true and correct copy of the Certificate is attached hereto, made a part hereof, and incorporated by specific reference. Such Certificate is erroneous, in that it:

(1) Disallows a claim for reduction from Schedule 3, of idle, obsolete and unsaleable inventory (identified as Account No. 322530). Such inventory consists of used machinery, originally manufactured by NCR, and subsequently returned to it for various reasons. The Tax Commissioner erred by assessing such inventory in excess of its true value in money. See Section 5711.18 of the Revised Code of Ohio.

(2) Disallows a claim for reduction from Schedule 3, of inventory held for export. Such inventory consists of new machines, manufactured by NCR solely for export. The Tax Commissioner erred by assessing such inventory in violation of Article I, §10, Clause 2, of the Constitution of the United States.

Because of the errors stated above, NCR requests that the Commissioner's determinations be reversed as unreasonable and unlawful, and that final judgment be entered in its favor.

Respectfully submitted,

THE NATIONAL CASH REGISTER COMPANY
CARLTON S. DARGUSCH, JR.
L. ORIN SLAGLE, JR.

DARGUSCH & DAY
218 East State Street
Columbus, Ohio 43215
Its Counsel,

and

JAMES E. RAMBO
Vice President, Secretary and
General Counsel

CHARLES E. MARTIN
Director, Corporate Taxes

(Certificate of Valuation Omitted)

BEFORE THE BOARD OF TAX APPEALS

No. 71-02-0330

THE NATIONAL CASH REGISTER COMPANY,
Appellant,

vs

ROBERT J. KOSYDAR, TAX COMMISSIONER,
Appellee.
34 North High Street
Columbus, Ohio 43215
August 5, 1971.

Met, pursuant to assignment, at 9:30 a.m.

BEFORE:

CHARLES HENDERSHOT, Attorney Examiner for the Board of Tax Appeals, Department of Taxation, State of Ohio.

APPEARANCES:

L. ORIN SLAGLE, JR., and ROGER DAY, of the firm of Dargusch and Day, 218 East State Street, Columbus, Ohio 43215, appearing on behalf of the Appellant.

WILLIAM J. BROWN, Attorney General, by PETER STRATIGOS, Assistant Attorney General, 71 East State Street, Columbus, Ohio 43215, appearing on behalf of the Appellee.

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WITNESSES:	Direct	Cross	Redirect
Andrew S. Gillen	9	47	
Charles Harman	60	64	70

EXHIBITS:	Identified	Received
Appellant's Exhibit No. 1	12	60
Appellant's Exhibit No. 2	15	60
Appellant's Exhibit No. 3	19	60
Appellant's Exhibit No. 4	25	60
Appellant's Exhibit No. 5	28	60
Appellant's Exhibit No. 6	29	60
Appellant's Exhibit No. 7	31	60
Appellant's Exhibit No. 8	38	60
Appellant's Exhibit No. 9	63	60

(Page 1)

PROCEEDINGS

Examiner Hendershot: This is before the Board of Tax Appeals, Department of Taxation, State of Ohio. The National Cash Register Company, Appellant versus Robert J. Kosydar, Tax Commissioner, Appellee. Case No. 71-02-0330.

This matter is being heard in the hearing room of the Board of Tax Appeals, 34 North High Street, Columbus, Ohio, on August 5, 1971, at 9:30 a.m., pursuant to assignment, before Charles Hendershot, Attorney Examiner for the Board of Tax Appeals.

The notice of tax appeal in this matter was filed with the Board of Tax Appeals on February 23, 1971, and is from a final assessment certificate of valuation dated January 29, 1971, for the tax return year 1968 in which a deficiency was found in the amount of $1,477,700.

Would counsel for the Appellant please enter his appearance?

Mr. Slagle: May it please the Board, we are Roger F. Day and Orin L. Slagle, Jr., of the firm of Dargusch and Day, 218 East State Street, Columbus, Ohio 43215.

Examiner Hendershot: Very well. (Page 2)

On behalf of the Appellee.

Mr. Stratigos: William J. Brown, Attorney General, by Peter A. Stratigos, Assistant Attorney General, 71 East State Street, Room 218, Columbus 43215.

Examiner Hendershot: Very well.

Now, Mr. Slagle, do you have a brief opening statement of what you expect to prove by the evidence which you will present to us this morning?

Mr. Slagle: Thank you, Mr. Hendershot.

The case this morning involves 1968 personal property tax return of National Cash Register Company. Through-

out this presentation we will no doubt refer to the National Cash Register Company as NCR.

The appeal is from a final assessment of personal property tax made by the Tax Commissioner on January 29, 1971. In that final assessment, he allowed a part of a claim which will not be involved in this appeal. The Tax Commissioner disallowed two major claims made by NCR. One claim related to NCR's unbettered or obsolete inventory, and the second involved a claim related to NCR's international inventory.

Both claims were for deductions from book value. Exceptions in the form of a notice of appeal to this Board were taken to the Tax Commissioner's decision. NCR claimed in its notice of appeal to this Board that **(Page 3)** it was an error for the Tax Commissioner to have disallowed its claims related to its unbettered or obsolete inventory, and a second error is claimed that it was erroneous for the Tax Commissioner to disallow its deduction from book value related to its international inventory.

The case this morning will proceed only on this second matter. We will not contest for the 1968 tax year the Commissioner's disallowance of the claim for deduction from book value for the obsolete or unbettered inventory. We will, however, present evidence which we believe will pursuade this Board that it was erroneous for the Tax Commissioner to have disallowed NCR's claim from book value for its international inventory.

Two witnesses will be presented by NCR. The first will give evidence concerning the nature of the items which comprise NCR's international inventory account. His evidence will be that each and every item included within that international inventory is an item which has been irrevocably committed to exportation.

The second witness will give evidence concerning value of items coming from its international inventory account.

The witnesses are in attendance, sir, and we **(Page 4)** are prepared to proceed.

Examiner Hendershot: Very well, sir.

On behalf of the Appellee?

Mr. Statigos: It will be the position of the Tax Commissioner and the Tax Commissioner expects the evidence to show that the assessment is correct according to law and therefore must be affirmed.

Examiner Hendershot: Very well. Call your first witness.

Mr. Slagle: Call Mr. Andrew S. Gillen.

Examiner Hendershot: Come around forward, please, and be sworn. **(Page 5)**

Andrew S. Gillen,

being first duly sworn as prescribed by law, was examined and testified as follows:

Direct Examination

By Mr. Slagle:

Q. Will you please state your name and address? A. Andrew S. Gillen, Main and K Streets, Dayton, Ohio 45409.

Q. Mr. Gillen, by whom are you employed? A. National Cash Register Company.

Q. How long have you been employed by the National Cash Register Company? A. For thirty years.

Q. What is your present title or position with NCR? A. Vice President, International Administration.

Q. How long have you had that title, sir? A. This is my fifth year.

Q. By the way, are your offices located in Dayton, Ohio? A. Yes, they are.

Q. Please describe for the Board your duties as Vice President of International Administration. A. I am responsible for the worldwide administration **(Page 6)** and financial matters of The National Cash Register Company.

Q. Did National Cash Register maintain an inventory of items destined for exportation at Dayton, Ohio?

Mr. Stratigos: I object to the use of the term "exportation, export," or anything of that nature, since there are legal conclusions attached to that term.

Examiner Hendershot: He may answer that question. The objection is overruled.

The Witness: Yes.

By Mr. Slagle:

Q. Did NCR maintain inventories of items destined for exportation in any other location other than Dayton, Ohio, within the State of Ohio? A. No.

Q. Are the records related to that inventory maintained under the custody and control of individuals over whom you exercise direct supervision? A. Yes.

Q. Is Mr. Charles Harman one of those individuals? A. Yes.

Q. And prior to the time that you were named Vice President of the International Administration, what position did you have with NCR? **(Page 7)** A. I was President of NCR, Canada.

Q. Is that a subsidiary of NCR? A. Yes, totally owned subsidiary.

Q. As President of the Canadian subsidiary, were you related to matters concerning international sales? A. To a limited degree.

Q. Were you familiar with NCR product lines for international sale? A. Also to a limited degree.

Q. Now, Mr. Gillen, is there some separation of the international operation of NCR from its other operations? A. There is total separation.

Q. Is the international operation separately incorporated? A. No.

Q. Please describe the degree of separation that exists with respect to the international operation. A. In the marketing of our business machine products, there are two main divisions of the National Cash Register Company. One is known as domestic marketing and the other is known as international marketing. Each of these divisions is headed up by a group Vice President who reports directly to the President of the company. **(Page 8)**

Q. Does the international division have its own accounting staff? A. It does.

Q. Does the international division have its own sales force? A. It does.

Q. Does the international division have its own product lines? A. Yes, combined with some items from domestic.

Q. Is the international division housed in a separate facility? A. Yes.

Q. Now, with respect to products that are packaged for departure from the plant or warehouse, does the international division have an identifiable packaging? A. Yes.

Q. With respect to inventory, do you have your own record control system? A. Yes.

Q. With respect to 1967, did the international division have its own separate record control system? A. It did.

Q. Now, Mr. Gillen, I want to ask you a series of questions concerning the manner in which an **(Page 9)** international sale is made. A. All right.

Q. First, what products are sold to foreign purchasers that might be warehoused at Dayton prior to their ex-

portation? A. Cash registers, accounting machines, and EDP, peripheral equipment.

Q. Now, can you describe for the Board what the meaning of the latter designation is? A. Yes, EDP peripheral equipment is basically items which are used to form a total electronic data processing system, or a computer system.

Q. All right.

Is there any difference in the manner of an international sale because of the product sold; that is, does the manner of the sale change depending upon whether the item sold is a cash register, an accounting machine, or an electronic data processing equipment? A. There is no difference.

Q. Let us assume that a cash register is being sold to a foreign consumer. Is there further designation of a cash register which will make your description of the sale more meaningful? A. Yes. All of our cash registers have individual model designations. Most of the machines **(Page 10)** sold in the international division have been designed for the particular country that it is going into, and things are so designated by the model number.

Q. Do you have class designations as well as model designations? A. Yes.

Q. Do you have a Class 5 cash register? A. Yes, we do.

Q. All right, let us assume we are talking about a Class 5 cash register. In how many countries would Class 5 registers be marketed by NCR? A. We are currently doing business in one hundred twenty countries of the world and roughly eighty percent of those countries would market the Class 5.

Mr. Slagle: I ask that this be marked as Appellant's Exhibit No. 1 for identification, sir.

Whereupon, Appellant's Exhibit No. 1 was marked for purposes of identification.

By Mr. Slagle:

Q. Now, I hand you, sir, what has been marked as Appellant's Exhibit No. 1 for identification and ask you whether or not you can identify that document? A. Yes, I can. This is a list of the countries **(Page 11)** where we have subsidiaries throughout the world. There are seventy-two on this and it is divided into eight regions.

Q. Now, are those all the countries in which you do business? A. No, these are countries where we have headquarters.

Q. All right, sir.

Now, are there possessions or territories listed on this Appellant's Exhibit No. 1 for identification. A. Yes, one. Puerto Rico.

Q. Is that the only possession or territory in which you make sales? A. No.

Q. What other possessions or territories do you make sales in? A. Guam is the only one I think of offhand.

Q. Did you determine what the percentage of international sales to possessions or territories represents? A. This would be a rough estimate, but I would say —

Mr. Stratigos: Objection. The witness has already said it would be a rough estimate. Obviously he is speculating. **(Page 12)**

Examiner Hendershot: He may give his estimate. He stated it would be a rough estimate and it will be considered in that light.

He may answer.

The Witness: I would also say this would be a rather intelligent answer based on a great deal of information about the operation of our business. My estimate is that

our business to possessions is less than one percent of our total business.

By Mr. Slagle:

Q. Now, Mr. Gillen, is there any reason to believe that the percentage of goods destined for possessions or territories located in warehouses in Dayton is in excess of one percent of the total goods warehoused? A. There is no reason.

Q. All right, sir.

Now, might classified cash registers be sold in any of the countries appearing on Appellant's Exhibit No. 1 for identification? A. Yes.

Q. Might a Class 5 register be sold to a person in Japan? A. Absolutely.

Q. Would the manner in which the transaction, that is to say the sale occurred, vary substantially **(Page 13)** because of the ultimate country to which the Class 5 cash register was to be delivered? A. No.

Q. Please describe generally what takes place when a salesman of Class 5 registers calls upon a prospective Japanese purchaser. A. The first thing that the salesman would have to do, of course, is to get the customer's interest and secure the permission of the customer to discuss his business with him, with the ultimate objective of being able to make a detailed survey of the customer's business to find out if there was a need for our product.

Once that need had been established, the salesman would decide how best to take an NCR product, and I think you mentioned the Class 5, and build that product to meet the customer's individual requirements in Japan.

Q. Before we go any further, Mr. Gillen, I want to ask you a few questions.

What is the relation of a Class 5 cash register to the other cash registers that have been made by NCR? A.

Well, the Class 5 represents the latest and newest product that the National Cash Register Company makes in the cash register field. It is also the most **(Page 14)** sophisticated machine produced. It is probably the most advanced machine produced by any cash register manufacturer in the world, and it, of course, is a generic term referring to one particular class of machine. A. Yes.

Q. And did NCR produce Class 5 cash registers for the international division during 1967? A. Yes.

Q. Now, except for its sophistication, is there any reason to distinguish this Class 5 cash register from other cash registers that were part of the international inventory during 1967? A. No.

Q. All right, sir.

Now, returning to the matter of the sale of a Class 5 cash register to a Japanese customer, what would be the first document to arrive at NCR indicating that a machine was to be manufactured for sale to the Japanese purchaser? A. An order equipment form.

Mr. Slagle: I am going to ask, sir, that this document be marked as Appellant's Exhibit No. 2 for identification.

(Page 15)

Whereupon, Appellant's Exhibit No. 2 was marked for purposes of identification.

By Mr. Slagle:

Q. I hand you what has been marked as Appellant's Exhibit No. 2 and ask you whether or not you can identify this document. A. Yes, this is an equipment order which was placed on August 28, 1970, by National Cash Register's Japanese subsidiary for a Class 5 cash register.

Q. Have you ascertained whether or not there is any difference in the form as used in 1970, as opposed to the

form used in 1967? A. To the best of my knowledge, there isn't any.

Q. All right, sir.

Now, directing your attention to this exhibit, being Appellant's Exhibit No. 2 for identification, I notice that there is a number which appears below the word "model."

Will you please state for the Board the meaning of that number? A. Yes. The first digit indicates the class of machine, which happens to be a Class 5. The next group of numbers which are in the brackets indicates the individual model number. The series of numbers **(Page 16)** following the model number indicate the basic construction of this individual machine, and when I refer to basic construction, I am talking about how the individual keys function to add, subtract, multiply, add into one total, subtract from another, et cetera.

Q. Does the model number in any way indicate that the machine to be produced might be consumed by a foreign customer? A. Yes, the group of numbers in the brackets happens to be a size number that is made only for the international division.

Q. All right, sir.

Now, would this order form be submitted to NCR at its offices in Dayton, Ohio? A. Yes, it would.

Q. Where, by the way, are classified cash registers produced? A. They are produced in two plants in Ohio. Dayton, Ohio, and Cambridge, Ohio.

Q. Irrespective of where the cash register was to be produced, would the order come to Dayton? A. Yes.

Q. Were you producing cash registers in Cambridge, Ohio, in 1967? A. I would say we were just starting, but primarily all cash registers were produced in Dayton **(Page 17)** at that time.

Q. All right, sir.

Would the National Cash Register Company, either at Dayton or Cambridge, have a cash register already constructed and built to meet this order at the time the order arrived? A. No.

Q. To whom does the form indicate that the Class 5 registers are to be shipped? This is an order for more than one, isn't it? A. It is for one hundred seventy, yes.

Q. To whom are they to be shipped? A. Japan NCR, Limited.

Q. Is that a subsidiary of NCR? A. Yes.

Q. Is it wholly owned? A. No, seventy-thirty subsidiary.

Q. Are there other NCR subsidiaries that are not wholly owned? A. Yes.

Q. Who owns the thirty percent, Mr. Gillen? A. This is owned by individual stockholders in Japan. Our stock is listed on the Tokyo Stock Exchange.

Q. Who owns the seventy percent? A. NCR, Dayton, Ohio. **(Page 18)**

To the right of the "ship to" entry on Appellant's Exhibit 2 for identification there appear to be questions concerning payment. Please describe the meaning of the various entries that might be made in this portion of Appellant's Exhibit No. 2 for identification. A. The method of payment, first of all, is determined by the country to which the equipment is going to be shipped.

We could have a sight draft. We could have a letter of credit. We can ship to an open account or we can have a deferred account.

Perhaps you might want to know why we have these different classifications.

Q. Yes, sir. A. Many countries today have serious foreign exchange problems. An example might be with

Argentina. In Argentina, whenever you have an equipment order that is for more than $10,000, if you wish to export from the United States, you must grant deferred terms. Depending on the magnitude of the order above $10,000 determines the number of months that you have to give credit which can go up to three or four years. This would be known as a deferred account. **(Page 19)**

We have other countries where they have serious balance of payment problems. For instance, the Philippines is one that comes to mind. There, until the Central Bank authorizes a letter of credit and import license, you cannot ship the equipment. We would say, therefore, in that case it was a letter of credit.

We have other countries that require a sight draft, again, as a method of controlling the balance of payment.

Then, we have other accounts in other countries where an ample balance of payment problem does not exist and we simply ship and bill the customer. That would be an open account.

Q. Were there balance of payment problems during the year 1967? A. To my knowledge, there have been balance of payment problems throughout the world in our association with any other country.

Q. All right, sir.

Who would be responsible for completing the responses to various blanks and squares on that portion of Appellant's Exhibit No. 2 for identification which relates to the payment? A. The International Order and Shipping Department.

Q. All right, sir. **(Page 20)**

Is that located at Dayton, Ohio? A. Yes, it is.

Q. All right.

Now, below the matter that we have here that has reference to a pro forma invoice, what is the meaning of

that, please? A. In many countries, before they will issue an import license, or a letter of credit, you must submit an invoice showing the type of equipment that is going to be shipped into the country and its pricing.

Once that has been done, no deviation of any kind can be made in the actual shipment or the license would be void.

Q. So, is an invoice sent to that country in advance of the time that the machine is manufactured? A. Yes, well in advance, and it is marked "pro forma invoice."

Q. All right, sir.

Now, what would be the next document related to the sale of a Class 5 cash register to a Japanese consumer? A. The next would be the individual building construction sheet which would tell them how this machine was to be built.

Mr. Slagle: I am going to request that this **(Page 21)** document be marked as Appellant's Exhibit No. 3 for identification.

Whereupon, Appellant's Exhibit No. 3 was marked for purposes of identification.

By Mr. Slagle:

Q. I hand you what has been marked as Appellant's Exhibit No. 3 for identification and ask you whether or not you can identify that document? A. Yes, I can. It is a building construction sheet for Japan that covers a model—Class 5 cash register, Model 700-20.

Q. Is this obviously a copy? It is, is it not? A. Yes.

Q. Where is the original of that document? A. The original would be in the files of the National Cash Register Company in Dayton, Ohio.

Q. Are these building construction documents maintained regularly by NCR? A. Yes, they are.

Q. All right, sir.

Now, then, again, I notice in the upper left-hand corner, there is a designation "Model No." Will you tell the Board the meaning of that, please? **(Page 22)** A. Again, this is a Class 5 cash register, Model 700-20 which is built exclusively for Japan, and it has individual functions which are described in the series of numbers following the model number.

Q. By the way, who is responsible for completing this document? A. This document is prepared by the individual salesman in the country with assistance from technical people in that country.

Q. And would it be a part of the documentation that is sent to NCR with the international equipment ordered? A. Yes. In fact, no order is acceptable without the building instruction sheet.

Q. All right.

Now, how can you tell, sir, from looking at Appellant's Exhibit No. 3 for identification that this calls for the manufacture of a cash register to be sent to Japan ? A. Well, first of all, the Model 700-20 would tell us that this was an international model. Also, when you see the Chinese characters which appear on this product —this billing instruction sheet, this would also indicate it is going to the Far East. The construction form itself says, of course, Japan. **(Page 23)**

Q. Now, I want to look in the center panel of Appellant's Exhibit No. 3 and to the left of the document. There are a number of column amounts and amount rows. Do you see those, sir? A. Yes.

Q. What is the meaning of that? A. This is the keyboard that is used to record a yen. This particular key-

board is different than you would find on a register used, for instance, in the United States.

You will note that there is no decimal point after the second—between the second and the third column. You will note that the decimal point will appear after the third column.

The reason for this is that in recording yen, there are no fractions. There are 350 yen to a dollar, so everything is to the left of the decimal point and instead of using a comma, they use a decimal point to set off the third and fourth row.

Q. How large a transaction in yen is this machine capable of recording? A. This machine is capable of recording ninety-nine million yen.

Q. And assuming now that we had a transaction where we were disregarding the cents, since there is no (Page 24) decimal point, what size transaction would this machine record if it were used in the United States? A. $999,000.

Q. I think I mislead you there.

Assume now the total absence of a decimal point and any reference to cents, what would be the size of the transaction? A. Well, then, you would have the ninety-nine million capacity.

Q. All right, sir.

Do you know of any domestic consumer who wants a machine of that capacity?

Mr. Stratigos: Objection.

Examiner Hendershot: He may answer if he knows.

The Witness: It would be impossible to have such an application in this country.

By Mr. Slagle:

Q. All right. Assuming the decimal point, what would be the magnitude of the transaction to be recorded? A. $999,000.

Q. All right, sir.

Now, I want you to look at that portion of Appellant's Exhibit No. 3 for identification which is denominated Row 2, key caption. Do you see that, sir? A. Yes. **(Page 25)**

Q. What is the meaning of the entry that appears below that in that column? A. Unfortunately, they are using Chinese characters and I cannot interpret that for you.

Q. What does that indicate to NCR is to be done as far as building construction is concerned? A. The function of these keys is described in the lower left-hand side of the form and also in the center middle, and this is done by a numerical expression and these numbers, or the function of these keys, are put into a computer and the computer actually designs the specially constructed parts that are required to meet this individual application.

Q. Now, the key caption itself, would that indicate that on the keys, if I were to look at the cash register produced pursuant to this particular document that those keys would have those characters on them? A. They would.

Q. Now, is there anything there that indicates what the pressing of that key would cause to be printed, if anything, on any tape? A. Yes. In the caption in the third row to the left where it says, "Key caption," it says, "Print," and it also prints the characters as you see them listed.

Q. All right, sir. **(Page 26)**

Now, then, do cash registers have what are known as indicators? A. Yes, they do.

Q. What is an indicator? A. The indicator is the amount that appears in the window that you see in the cash register to my right.

Q. All right, we will ultimately have some pictures to show that. Are you speaking now, sir, of the glassed portion at the top of the cash register? A. I am.

Q. All right.

Now, at the time that this was received at Dayton, Ohio, is it known by those who look at this that such a machine can, in fact, be built or manufactured? A. Basically, yes, because of the model number 700-20 which tells the person reviewing this that the basic model has been built and proven for the Japanese market.

Q. Now, with respect to the peculiar modifications that are required by the numbers, you have testified appearing in the lower left-hand side of Appellant's Exhibit No. 3 for identification, how do you test out whether or not those modifications can be made? A. This can only be done by a computer because, by simply changing the function of one key, it affects **(Page 27)** the mechanism of the entire machine.

Q. All right, sir.

Now, does Appellant's Exhibit No. 3 for identification give you any indication of the kind of motor or electrical current that the machine is to be wired for? A. Yes, it does. It is for an AC current, 100—

Q. Volt? A. —volt. I couldn't think of the word. It is sixty cycles.

Q. Is the AC current in the United States standard at one hundred volts? A. No, sir, it is 110-120.

Q. Is it standard at 100, 60 cycles? A. No, it depends on the country where the machine happens to be installed. Japan has some sixty cycle and also some fifty cycle.

Q. What would happen to a machine designed for AC current of 100 volts if it were plugged into an outlet with 110 volts?

Mr. Stratigos: Objection. There is nothing showing that the witness is an electrical engineer or has any knowledge of this area.

Examiner Hendershot: He may answer, again, if he knows. **(Page 28)**

The Witness: I do know. I have been in this business over thirty years. It is just a basic question.

If you were to plug it in, you would ultimately burn the motor out, so you couldn't use it.

By Mr. Slagle:

Q. Are there countries that require you to employ fifty cycle motors? A. Yes.

Q. What country besides Japan might require the use of such a motor? A. Almost all of the Latin American countries and many of the European countries.

Q. Now, what would happen to a machine if it were equipped with a fifty-cycle motor and it was plugged into a current with sixty cycles? A. Well, as long as the machine would operate it would operate until you burned the motor out. You would get a very, very slow operation, and more than likely, you would make the machine add wrong, because of the change of the cycling time.

Q. Would that be true of an accounting machine as well as a cash register? A. This would be true of any mechanical device driven by an electric motor. **(Page 29)**

Q. And, therefore, this would be true of electronic data processing equipment? A. Yes, sir.

Q. Below what you have been testifying about, namely, AC current and cycles, there appears the question, "Tropical," and the answer, "Yes." What is the meaning of that? A. In certain climatic conditions where it is very humid, you must have a tropical motor. This is a specialized motor and very much more expensive than a motor to be placed in the United States. It is made to withstand extreme heat and humidity.

Q. What would be the next document involved in the purchase and manufacture of the machine for sale to a Japanese consumer? A. After the building construction sheet from the country has been reviewed and it has been ascertained that this machine, in fact, can be built as specified, then a factory work order card is made up.

Mr. Slagle: I will ask this document be marked for identification as Appellant's Exhibit No. 4.

Whereupon, Appellant's Exhibit No. 4 was marked for purposes of identification. **(Page 30)**

By Mr. Slagle:

Q. Now, sir, I am going to hand you what has been marked as Appellant's Exhibit No. 4 for identification and I am going to ask you whether or not you can identify that. A. Yes. This is a factory work order for a machine. It is a Class 5. It happens to be a Model 241-27.

Q. All right, sir.

Now, can you, from looking at Appellant's Exhibit No. 4 for identification, tell where this machine is to be used? A. It has the National Model No. here indicated as 241-17, but without referring to an individual order, I would have to go entirely by the symbol, and the symbols are Chinese. Therefore, I would assume it is Japan.

Q. How could you determine if you only had Appellant's Exhibit No. 4 for identification before you who had ordered this machine? A. Well, there is a tracer number assigned to this particular order. It happens to be No. 75176M, and that is the identifying number of this product going through our production.

Q. And can you use that number to make a connection between Appellant's Exhibit No. 4 for identification, and **(Page 31)** an equipment order? A. Yes. This can be cross referenced to a specific order number and customer.

Q. Now, with respect to sales by international division during 1967, beginning in 1967 and thereafter, is there a factory work order covering every machine that is manufactured? A. Yes, there is.

Q. And are these maintained or preserved? A. Yes, they are.

Q. And where are they maintained or preserved? A. In Dayton, Ohio.

Q. Now, are the international equipment orders maintained or preserved? A. Yes.

Q. And where are they maintained or preserved? A. Dayton, Ohio.

Q. If I were interested in determining the order and seeing the factory order equipment production order card for each machine that was warehoused during 1967 by the international division, could you make those documents available to me? A. Yes.

Q. Would those documents be similar in appearance to Appellant's Exhibit No. 1 for identification which **(Page 32)** you have identified as being an international equipment order and Appellant's Exhibit No. 4 for identification which you have identified as being a Class 5 production order? A. They would be identical.

Q. Do you have an equipment production order for accounting machines? A. Yes, we do.

Q. Do you have an equipment production order for electronic data processing equipment? A. Yes, we do.

Q. And do you maintain or preserve those forms in the same fashion that you have previously testified? A. Yes, we do.

Q. Now, is there some relationship between the equipment production order from which is Appellant's Exhibit No. 4 for identification and the building instruction card which is Appellant's Exhibit No. 3 for identification? A. Yes, directly related.

Q. What is that relationship? A. The factory work order card or production card takes what I would consider layman's language and it turns it into production language so the factory knows how to proceed to build the machine. **(Page 33)**

Q. Now, where is the factory order card, Appellant's Exhibit No. 4 for identification, kept during the production of the machine? A. It is on the machine the entire time, on the main frame.

Q. If a person who had made an international equipment order came to Dayton during the time that the machine was being manufactured, could you find in the manufacturing process for him that machine which he ordered? A. Yes. We would know exactly what job it was on throughout the entire production procedure. When I refer to job, it is Job No. 1, No. 2, or No. 3, as it goes down the assembly line.

Q. Who would be responsible for the completion of the various data required to complete Appellant's Exhibit No. 4 for identification? A. This is prepared by the order production scheduling department which is under the manufacturing control.

Mr. Slagle: Sir, at this time, if it pleases the Board, we would like a ten-minute recess. We have a problem with one of our exhibits that can be taken care of in ten minutes.

Examiner Hendershot: Very well, we will take **(Page 34)** ten minutes.

(Short recess.)

Examiner Hendershot: All right, you may proceed.

Mr. Slagle: Thank you, sir.

By Mr. Slagle:

Q. After the cash register was produced pursuant to Appellant's Exhibit No. 4 for identification, what would next happen to it? A. It would go to final inspection and

after it was determined that the cash register, in fact, had been built as specified on the factory work order card, it would then go to packing and would be packed for export shipment.

Q. Now, is there anything distinctive about export packaging? A. Yes, there is.

Q. Are you familiar with the kind of packaging that is used by National Cash Register for goods to be shipped outside the country? A. Yes, I am.

Q. All right.

Mr. Slagle: May this be marked as Appellant's Exhibit No. 5 for identification, Mr. Hendershot? **(Page 35)**

Whereupon, Appellant's Exhibit No. 5 was marked for purposes of identification.

By Mr. Slagle:

Q. I hand you what has been marked as Appellant's Exhibit No. 5 for identification and I will ask you whether or not you can identify what that document is. A. Yes. This is a piece of equipment designed or made for export shipment.

Q. All right, sir.

Now, with respect to this particular exhibit, how do you know that that is designed for export shipment? A. By the crating.

Q. And the crate is made of what, sir? A. It is made of wood, reinforced with wire bands and steel straps.

Q. Now, is it necessary to protect the machine from moisture? A. Yes. If you will notice, underneath or in the openings in the side, you can see the piece of equipment is sealed in a very heavy plastic, tight, moisture-proof cover.

Q. Now, how does that packaging differ from packaging for a machine to be sold within the United (Page 36) States? A. Most of the equipment sold in the United States is packaged in cardboard cartons.

Q. Is it necessary to protect it from moisture? A. Not to the degree that it is on export shipment. Sometimes under export shipment, they actually wind up on the deck. It is deck cargo and they don't even go into the hold.

Q. Does an item destined for an export customer and exported ever find its way back into the United States? A. No, never.

Q. All right, Mr. Gillen.

Mr. Slagle: I ask that this document be marked as Appellant's Exhibit 6 for identification.

Whereupon, Appellant's Exhibit No. 6 was marked for purposes of identification.

By Mr. Slagle:

Q. I hand you what has been marked as Appellant's Exhibit No. 6 for identification and ask you whether or not you can identify that. A. Yes. This is a piece of sales promotional material prepared in Japan for the Class 5 register and (Page 37) specifically for the Japanese model of the Class 5, 201-15.

Q. I want you to turn to what would be the third page of the brochure and I ask you whether or not that is a picture of what a Class 5 cash register produced for a Japanese purchaser might look like. A. It is.

Q. Now — A. I was going to say I might particularly call your attention to the reason I can immediately identify it is because on the identification, you see where a

decimal point is used between the third and fourth column which is used in lieu of a comma and you will note there is no decimal point to the right of the figures.

Q. All right, now, I notice in that photograph a series of keys which are lettered A through N. Is that correct? A. Yes.

Q. Immediately to the right of those keys, I see a series of rows of keys which are numbered in ascending column from 1 through 9. Is that correct? A. Yes.

Q. Now, what would be the function of those keys? A. This is the amount keyboard which would **(Page 38)** facilitate recording 999,999 yen.

Q. All right, sir.

Now, is that the same number of amount keys that were called for in the factory work order card which was Appellant's Exhibit No. 4 for identification? A. Yes.

Q. Now, assuming that this cash register was, in fact, prepared to be marketed in Japan, would the arabic symbols appear 1 through 9 on that cash register? A. They would.

Q. Now, then, to the right in the photograph I notice that there are a series of keys which, in a descending order, are numbered in the first row 1 through 9 and the second row 10 through 18. Do you see those sir? A. Yes, I do.

Q. Would those keys appear in that fashion in a cash register prepared for a Japanese consumer? A. Not normally. What we are trying to indicate here is that we can custom build this machine for a Japanese consumer and this is simply numbering the positions which are available for custom construction.

Q. All right, what would one expect to find on those particular keys? A. Normally, you would find a Chinese character **(Page 39)** designating the key and its function.

Q. Now, again, directing your attention to what you have identified as being the six rows of amount keys, are you familiar with the number of amount keys that would normally appear on a model of a Class 5 cash register for a continental United States customer? A. I am.

Q. How many would there be? A. Normally four, and a maximum of five.

Q. And that would allow the record of what? A. Ascending item in a purchase of $99.99. There would be no limit to the total number of purchases.

Q. All right.

With respect to the single item purchase on a five-row of keys cash register? A. Single item then would be $999.99.

Q. All right.

Mr. Slagle: Now, if it please the Board, I am going to ask that this be marked as Appellant's Exhibit No. 7 for identification and I am going to ask for permission to have a series of photographs taken for the record after the illustrations made by Mr. Gillen.

Examiner Hendershot: All right, we will refer to that as Exhibit 7 without putting a mark on it. **(Page 40)**

Whereupon, the document above referred to was identified as Appellant's Exhibit No. 7.

By Mr. Slagle:

Q. I want you to look at Appellant's Exhibit No. 7 for identification and tell me whether or not you can identify this. A. Yes, it is a Class 5 cash register built for the International Division.

Q. All right, sir.

How do you know it was built for the International Division? A. By prior inspection of it during the break.

Q. Do you want to come over here, Mr. Gillen, and will you point out for the Board the amount keys? A. Yes. There are $99.99, or in this particular case, it happens to be marked pfennigs because it is a German constructed machine.

Q. How do you know, sir, that this is a German constructed machine? A. It happens to have the German characters on it.

Q. All right, sir.

Now, then, how many rows of amount keys do you find on this particular machine? **(Page 41)** A. Four.

Q. And then there are a series of keys that are numbered 1 through 9 to the right on the keyboard of the amount keys, is that correct? A. That is correct.

Q. Now, what function do those keys perform? A. At this point, without knowing the particular application, I am going to have to give an assumption. I would assume that these are department identification, numerical department identifications.

Q. They might serve that function? A. That is correct.

Q. All right.

Then, there are keys on here that have words. Are you familiar with the German language? A. No, I am not.

Q. All right. Do those appear to be written in a foreign language? A. They are.

Q. All right.

Then, to the right of those are a series of keys and some symbols connected with those. What are those, sir? A. They are the control keys that enables you to, at the end of the day or during the day, to determine **(Page 42)** what business has been done in each of these various classifications.

Q. All right.

Now, finally, across the bottom row, we find a series of keys that are numbered consecutively 12 through 2, is that correct? A. That is correct.

Q. What are those keys for? A. These are unit control keys so that if I sell three items in Department 7, the machine will automatically catalog the cost of it and will down here record the number of the items sold in this particular category.

Q. All right.

Now, then, is this machine—by the way, let's identify the matter of the indicator.

You previously spoke of an indicator and talked about the glass portion. Is this at the top of the machine? A. Yes.

Q. And is the indicator that which appears in the extreme right? A. Yes.

Q. What would appear here in these two blocks? A. The department classification and the German symbol indicating the amount charged so the customer **(Page 43)** would be able to know or follow the transaction as it was recorded.

Q. All right.

With respect to the use of this machine without any change whatsoever, in Japan, let's say, what would be the maximum purchase that could be recorded on this particular machine in Japan? A. Here we would have nine thousand yen.

Q. All right. That would be the equivalent of a purchase of how much in dollars? A. Excuse me, that is 90,000, I am sorry.

There are 350 yen to a dollar. You would have to divide. This keyboard would be totally inadequate for a Japanese customer.

Q. You also have a decimal point that appears, do you not? A. Yes.

Q. That would be inappropriate for Japanese, from your previous testimony? A. Yes, the decimal would be between the third and fourth row. This is between the second and third.

Q. Now, let's assume what we want to do would be to lift off these keys that have German language on them and insert instead keys that would have English equivalents. Would that mean that would then make this **(Page 44)** a cash register which, in your opinion, could be marketed in the United States? A. No, because this would be built to meet the tax requirement for German, and these are primarily tax control keys in this area.

Q. All right.

If you just changed these keys, for example, from German to English, what would the printer do? A. It would still continue to print the German characters and indicate the German characters.

Q. All right.

Now, if I changed the printer wheel—is that what is involved here? A. Yes.

Q. And if I changed the indicator so that they also had English equivalents, would I have a machine which, in your opinion, could be used by a continental United States consumer? A. No.

Q. Why not, sir? A. Well, the keys are made to function, for instance, this key may be subtracting in this application and there may be no need for subtraction. This next key may be calculating a tax at seven percent or four percent or three percent, again, this would not be **(Page 45)** applicable, for instance, in Ohio for the Ohio tax law.

Q. At seven percent, it may become usable; but it is not usable today, I assume. A. Right.

Q. Now, with respect to this particular machine, are there any differences in the drawer, for example? A. Yes. There is a very definite difference here. As many of you in this room know, the mark is much wider than the dollar, so what has been necessary is that we have had to sacrifice space because of the extra width which is roughly about five-eighths of an inch wider than you would find in a domestic cash drawer.

Q. Now, would that—would currency variations mean that a cash register that was made for a consumer within the U.K. might differ in appearance from this cash register? A. Yes, in U.K., as the denominations go higher, the bill gets wider. You would have to have a staggered set of compartments to offset the value of the currency.

Q. In 1967 with respect to a machine of this kind which might have been manufactured for the U.K., would there have been other differences? A. Yes. In 1967, Great Britain was on Sterling which means that they had twelfths, rather than tenths, so you had an entirely different type of mechanism **(Page 46)** inside the machine than you would have in this one.

Q. Now, sir, have you studied the work order card and the production card with respect to this particular machine? A. I have not.

Q. You have not.

Can you tell by looking at this machine whether or not it is wired to perform any functions other than record sales data? A. Well, by looking at the machine on the back, I can see that it is wired for change computation.

Q. All right, sir.

Now, what kind of change computation? A. This would be wired for marks.

Q. That wiring—could that change computation be used with respect to pennies, nickels and dimes? A. Again, without looking at the schematic drawing, I can't answer the question. The chances are that it probably cannot, but I cannot be absolutely positive on that.

Q. All right.

Within your knowledge, and answer if you do not know that you do not know. Do you know that the wiring for a change mechanism for an international machine may not operate in the United States because of (Page 47) the differences in the coinage? A. I can tell you positively it wouldn't operate in the United States because there has to be a dispenser attached here and the dispenser is denominated for the coins of the country and the denomination of the coins in Germany are entirely different than the denomination of the coins we have in the United States. I unequivocally can say it will not operate in the United States.

Q. Is this machine able to determine now what change should be given to the customer? A. Yes.

Q. That is not a manual computation that is recorded? A. The distribution of the coins is completely controlled by the machine itself, and where you, for instance, have no equivalent of twenty-five-cent piece in Germany, there would be no way you could apply this.

Q. Is there some designation on this keyboard so the operator would, say, give me four of the big ones, whatever they are? A. No, it is automatic.

Q. All right. You may return to your seat, if you will. A. Thank you. (Page 48)

Q. Beside potential customers in Germany for this machine, where, if anywhere, is there a potential customer for a machine such as Exhibit 7? A. A German-

built machine would be very difficult to place anywhere else outside of Germany.

Q. To your knowledge, or to your belief, are there potential customers within continental United States? A. No, none to my knowledge.

Q. Could the machine be converted into a model which would have a domestic or continental United States market? A. It could, if you are willing to pay the cost.

Q. Could National Cash Register make such a conversion and sell the cash register at a price which would be competitive with a machine that was originally manufactured and produced for domestic consummation?

Mr. Statigos: Objection. There are all sorts of questions involved there, for none of which has a foundation been laid to show thatt his witness would have knowledge of that.

Examiner Hendershot: We will ask him.

He may answer if he knows.

The Witness: I can say that I do know, and that we have come prepared to prove to you what it would (Page 49) cost to change this particular machine to a United States constructed machine.

By Mr. Slagle:

Q. Now, my question, then, Mr. Gillen, is whether or not that conversion, once made, would produce a machine which would be competitive in price with a machine that was originally manufactured and produced for domestic consumption? A. No, it would not, and we have brought along the figures which will support this statement. To convert this machine to a United States keyboard would cost roughly sixteen percent of the total MLB.

Q. What does MLB mean? A. That is total cost of producing the machine which includes material, labor and burden.

Q. And now comparing that to the margin within which you normally operate, is that in excess of your margin? A. Well, our pre-tax profit is in the area of five percent, and so if you were to add sixteen percent to your cost, you would be totally out of business.

Q. All right.

Now, we have been using a Class 5 cash register, which is Exhibit 7 for identification.

Would your answers have been any different if **(Page 50)** we were using an accounting machine? A. No, the same basic principles apply.

Q. Would your answers have been any different if we had been using electronic data processing equipment? A. No.

Q. All right.

Now, I want to ask you a series of questions concerning the actual production of an item for sale to a foreign consumer. Let's again use the cash register.

What is the first assembly step with respect to a Class 5 cash register? A. The first thing that must be done is to arrange for the subassemblies of which this machine is made up to be produced.

One of the first subassemblies is the keyboard mechanism of the cash register.

Mr. Slagle: I ask this be marked as Exhibit No. 8 for identification.

Whereupon, Appellant's Exhibit No. 8 was marked for purposes of identification.

By Mr. Slagle:

Q. I hand you what has been marked as Appellant's Exhibit 8 for identification and ask you whether or not **(Page 51)** you can tell me what that is. A. Yes, it is one

of the control rows for a National Cash Register and it is of Spanish construction.

Q. How do you know it is of Spanish construction, sir? A. The language on it is Spanish.

Q. All right.

Assume that I wanted to convert this row of keys to Japanese, would I merely have to remove the keys that are now in place and substitute other keys which express the same matters in Japanese? A. This would be done, but it would have no value at all.

Q. Why not, sir? A. Well, these are the keys that control the function of the machine saying whether we are going to add, whether we are going to subtract, or whether we are going to multiply and it determines the function of the keys to the left of the machine.

Underneath this key bank there are eighteen strips of metal. These strips of metal have twelve positions on each one of these strips. Now, in order to determine the function of this machine and the inner relationship between each of these strips, we have these detents which automatically make the machine add, **(Page 52)** multiply, subtract, subtract from one total and add to another. This has been designed to function with the control rows at the left for a special individual transaction.

This construction is so complicated that if you change just one of these detents, then it affects the position on the other eighteen rows of control metal underneath here, or segments, and only a computer can determine the inner reaction of these individual detents when you change one single function.

Q. Now, how many detents have you testified there are with respect to this row of control keys? A. There are eighteen separate rows with twelve detents on each row,

and there are three rows of these in the cash register, so that gives you the possibility, numerically, of the various combinations or functions that you can make this machine do.

Q. You have indicated three rows of control keys. A. Yes.

Q. That are possible for a cash register? A. That is right.

Q. Is there an interrelationship between the various rows, once they are established? A. There is a direct relationship, and as I mentioned, just changing one of these detents sticking **(Page 53)** out here changes the function of every other segment in the machine.

Q. Now, we have previously had identified for us the factory work order card. Does that card identify for the factory personnel how the control keyboard and the detents and the metal strips are to be constructed? A. Well, this was actually done by a computer printout which printed the punch paper tape which, in turn, went to a machine that will automatically build these detents in accordance with the construction asked for here.

It also has determined before the punch paper tape was created that this combination of positions will actually, in fact, work on this machine.

Q. And do I understand your evidence to be that even the parts for this particular machine are not built in advance of the arrival of the equipment order? A. No. It is impossible. The equipment order determines the positions of the detents.

Q. Now, beside the rows of keys and the detents behind the keys, of what else, if anything, does a cash register consist? A. It consists of totals which can add, subtract, or cross add. By cross add, I mean go from one to the other, add in one, subtract another, and determine the **(Page 54)** net difference.

Q. Is a cash register essentially a manual or electrical machine? A. Primarily a manual machine with electric controls.

Q. I should have said manually controlled or electric controlled? A. Yes.

Q. You previously testified from the work order card that a model constructed for Japan required a current different than that which is used in the United States? A. Correct.

Q. With respect to Appellant's Exhibit 7 for identification, could we plug that into the current here in this hearing room and expect that that machine would operate? A. No, you could not.

Q. Why not, sir? A. This happens to be a fifty cycle motor in this machine.

Mr. Stratigos: Objection. Here again, he is asking the witness to testify about an electrical machine that will not operate on United States current and it is clear the witness is not an electrical engineer. **(Page 55)**

Examiner Hendershot: I don't believe he has to be an electrical engineer to answer that question. Again, he may answer if he knows.

The Witness: It is very simple. You have to have the ability to look at the plug here. Because of cooperation of international standards throughout the world, we make the sort of a plug for a fifty-cycle so that it will not fit into a sixty-cycle plug. Just try this, you will see that it doesn't work.

Mr. Slagle: All right, sir.

By Mr. Slagle:

Q. Now, does the internal electric wiring of a machine control in any way the various functions the machine is to perform? A. Yes, and I alluded to that when I referred to the wiring harness from the back of the machine.

Q. Would the wiring change depending on the function that was to be performed? A. Yes.

Q. Would the differences in the electric motors and currents which you have described with respect to the cash register be the same with respect to electronic data processing equipment? A. Yes.

Q. And accounting machines? **(Page 56)** A. Yes.

Q. Now, do your accounting machines also have control keys? A. Yes, they do.

Q. And do they also have the control metal bars that you have indicated which are present in Appellant's Exhibit 8 for identification? A. In an entirely different mechanical form, yes.

Q. And do they have the equivalent of detents? A. Yes, we call them stop positions.

Q. Now, with respect to EDP equipment, do they have things that are similar to control keys? A. Yes, except it is done entirely by electricity. It is done electronically.

Q. All right.

Beside the keys, printing wheels, indicators, wiring, and the motor, are there other differences between machines that are sold to foreign consumers and those sold to continental United States consumers? A. Well, now, we are talking about an application of equipment and the business application and the usage of machines in the United States, basically, is different from that in most countries of the world.

Q. Could you illustrate that, please? A. Yes. **(Page 57)**

In the United States, in the retailing field, the degree of merchandise control is different. The philosophy is different than we have in most countries throughout the world. It happens that the techniques here are perhaps ten years ahead of most countries in Europe at the moment, and we have what we call automatic reorder systems. We have economic order quantities and so forth

which are gotten as a by-product of recording a sale on a machine, and that information is used for a computer input on the more sophisticated models.

Q. During 1967, where was the international inventory actually warehoused? A. In Dayton, Ohio.

Q. Has the location of that warehouse changed since 1967? A. Yes, it has.

Q. Now, do you conduct periodic reviews of what international inventory consists of? A. On a monthly basis, yes.

Q. What is the purpose for those reviews? A. The purpose is to review the machines which are in the inventory to determine why they are there.

Usually the reasons for these: Many countries today will not allow a partial shipment. For example, on one of the exhibits here, we show that there are **(Page 58)** one hundred seventy machines. Some countries would not allow you to split that shipment into ten or twenty or thirty units.

Now, in a production cycle, the machines do not come out one hundred seventy at a time, but may come off two or three a day. You must consolidate those machines prior to shipment.

In other areas, particularly in the EDP area, where we may be manufacturing peripherals in several different spots and the main frame comes from a different location, we have to bring the entire EDP system together before it can be shipped and we have to consolidate.

The other reason that we have inventory is the fact that we have not been able to get an importation license, and this comes about in the following way:

For instance, Colombia is a good example. At the time an order is placed by the customer and our people have

gone to the government and asked: Will we be able to get an importation license?

They say: Yes.

Is foreign exchange available?

Yes, at that time it is.

But at the time of actual shipment, the foreign exchange situation might have deteriorated and the government refuses to issue an import license until their (Page 59) balance of payments problem is in better shape.

We have had cases in Colombia where it has taken up to two or three years after the equipment was actually built before we could actually ship it into the country and get the importation license.

This is not at all unusual. We had a case in the Philippines, now, which has had very severe inflation. They have had a devaluation of over sixty percent in the currency.

The currency is now floating. The actual importation licenses are only issued on the basis of availability of foreign currency so we build the equipment and then we have to wait until we get an importation license.

In other cases, a letter of credit may be held up and we again must hold this equipment until all of the original agreements made on this particular order are met.

Q. Are machines ever placed in the warehouse by the International Division awaiting a determination as to whether or not they will be offered on the domestic market? A. Never.

Q. Now, do you sell any machines to a foreign purchaser on consignment? (Page 60) A. Never.

Q. Have you had any machines sold to a foreign purchaser returned? A. No.

Q. Have you produced machines pursuant to an international order where, for some reason or other, the purchaser has defaulted? A. Yes.

Q. What have you done with those machines? A. This becomes a very severe problem to us. I can give you a current example.

We had a large order placed in the Belgian Congo—the Congo. It is now no longer the Belgian Congo. We do not have a subsidiary in the Congo. We operate through a general agent.

A general agent is a private businessman doing business in that country. There are certain countries in the world that will not allow an international company to operate in the retail—as they call it, retail sector, so in that case, we have to go to individual private businessmen. In this particular case in the Congo there was an order for a large number of accounting machines. They were built with the French language and basically French construction, and then the general agent was not able to get the financing to bring them **(Page 61)** into the country and there was no solution but to cancel the order.

Q. Now, the general agent that you refer to, is he an employee of NCR? A. No, he is a private individual businessman.

Q. All right.

Now, let me clear up a few matters. Are all of the inventory items, or were all of the inventory items in 1967 cash registers, accounting machines, and EDP equipment? A. Yes.

Q. And do you produce any machine for the International Division without an order for that machine? A. We do not.

Q. Does National Cash Register have competitors in the foreign market for cash registers, accounting machines, and EDP equipment? A. The business equipment industry is probably the most competitive industry in the entire world, and the answer to that is that in every major country where there are locally—there is locally

manufactured equipment which is available for domestic use and it is exported throughout the world, much of that equipment comes into the United States today.

Q. Now, are those competitors all continental **(Page 62)** United States manufacturers? A. No, actually only a small fraction of the total competitors are United States companies.

Q. Who are the major competitors with respect to cash registers, for example? A. Shenko from Japan, Anchor from Germany, Sweda from Switzerland, Hugen from Switzerland, Gross from the U.K. Those are just a small number of the total in this business.

Q. Are they also manufacturers of accounting machines and EDP equipment?

Mr. Stratigos: I object. I don't see the relevancy of this line of questioning.

Mr. Slagle: I think it is relevant, especially when we have a claim here that the State has laid a tax on export items, which items must compete in the foreign market with non-resident or non-United States manufacturers I believe I am entitled to establish that the base for that principle of law is a factual base in this case.

Examiner Hendershot: You may answer.

The Witness: Would you repeat the question?

By Mr. Slagle:

Q. Are they also producers of accounting machines and EDP equipment? A. I actually gave you companies whose primary **(Page 63)** business is cash registers. Some of these companies, Anchor, for example, in Germany, make a complete line of accounting machines. However, the number of people in the accounting machine business are even more numerous than those in the cash register. The EDP business is expanding in the same way.

As an example, in the accounting machine area, a company that you would never associate with that business

is Philips of the Netherlands. They have become very strong competitors in the accounting machine business and are moving into the United States in a very big way with business machines, also a name in Germany that you would not assume to be in the business machine business are now becoming major factors in the EDP business.

Semantoma Electric Company in Japan, which you certainly would not assume as being a part of the EDP industry, are major factors in manufacturing computers today.

Q. Did you have this kind of competition in 1967 and 1968? A. Yes.

Mr. Slagle: I have no further questions, sir.

Examiner Hendershot: Very well.

Do you have any cross examination? **(Page 64)**

Mr. Stratigos: Yes.

Cross Examination

By Mr. Stratigos:

Q. Mr. Gillen, I believe you testified you were the Vice President in charge of International Administration of National Cash Register. Is that correct, sir? A. Correct.

Q. And you were in that position during the year 1967? A. I was.

Q. Is that correct, sir? A. Yes.

Q. Can you tell me a bit about your educational background? A. Yes.

Q. Where you went to high school and college? A. I went to City College in Baltimore and the University of Maryland.

Q. What did you major in? A. Economics.

Q. You majored in economics? A. Yes.

Q. And that was when, sir? **(Page 65)** A. In 1936, 1937, 1938.

Q. And you are today physically located — your office is physically located in Dayton, Ohio? A. Yes.

Q. And you office is in the plant area, is that correct? A. Yes, reasonably correct. We are spread over a very, very large area in Dayton, but certainly our office is among some of the manufacturing buildings.

Q. Well, I see. Is it correct to say that your office is not physically located in a manufacturing building? A. All the buildings in Dayton complex are connected by a tunnel, so to that degree we are related to the manufacturing facility.

Q. But you are not actually in the manufacturing plant, is that correct, or one of them? A. Not at this time, but may I add one point?

Q. Okay. A. When I was President of the Canadian Plant, I was — I had the manufacturing plant under my control. I am reasonably —

Q. I am just concerned with where your office is located. Okay? A. All right. **(Page 66)**

Q. Now, sir, then, in the course of your present position, I assume you have had occasion to go to the manufacturing area? A. Yes.

Q. Where the machines are made? A. Yes.

Q. And discuss these machines with the various engineers, electricians, and so forth, is that correct, sir? A. I would not do that in the normal course of my work.

Q. But it has happened on occasion, is that correct? A. Yes, it has.

Q. And did the same thing occur while you were in charge of the Canadian Division? A. Yes.

Q. And then, sir, would it be correct to say that some portion of the knowledge that you have of these ma-

chines was derived from your conversations with other people? A. Yes, that is correct, as all knowledge is imparted.

Q. And then, sir, in part what you have related here today is what other people have told you, is that **(Page 67)** correct, sir? A. I am also relating what I know from my own experience in working with these products for the last thirty years.

Q. Now, sir, with regard to the corporate structure of The National Cash Register Company, and in particular with regard to facilities located in Dayton, I believe you stated that the international operations and the domestic operations were separate and distinct operations. Is that correct, sir? A. That is correct.

Q. Now, does the international operation take the form of a division of the corporation? A. It is the International Marketing Division.

Q. I see. Does the domestic division — A. Domestic Marketing Division.

Q. And are both units located at your Dayton facility, or is there some office of each division at your Dayton office? A. They are in widely separated areas.

Q. But they are both in Dayton? A. They are both in Dayton, yes, that is correct, because that is the world headquarters of The National Cash Register Company. **(Page 68)**

Q. Now, sir, I believe your testimony to this point has been to the effect that a cash register which was initially manufactured for foreign markets would have three significant differences from a machine for the American market.

One, the keys one the register.

Two the drawer.

Three, the motor.

Is that a correct statement, sir? A. No, it is not. The basic differences are the functioning inside the internal mechanism of the machine is entirely different. The keys on the external side are only symbolic of what takes place inside in the mechanism.

Q. All right, sir.

When you speak of the interior workings of the machine, then you are talking about something in addition to the mechanisms, I believe, on Exhibit 8?

Mr. Slagle: That is the correct exhibit number.

By Mr. Stratigos:

Q. Is that correct, sir? A. Yes.

Q. And it would be something different in addition to the drawer? **(Page 69)** A. Yes.

Q. And it would be in addition to the wiring connected to the motor, is that correct, too, sir? A. Yes.

Q. And now, sir, can you tell me, do you — with regard to your domestic market, do you normally provide some sort of service to these machines? A. Yes.

Q. Do you also service contracts for foreign machines? A. Yes.

Q. In other words, they would be serviced by your people, say, in Japan. Is that correct? A. Yes.

Q. And if a part of a machine that was sent to Japan went on the blink, would you be able to order a new part locally in Japan? A. If it was a United States built machine, the part would always come from the United States.

Q. I see.

With regard to a domestic machine, where would that part be obtained? A. From the United States.

Q. Would I be able to purchase that part, I not being NCR repairman? **(Page 70)** A. Yes.

Q. In other words, those parts are available to anyone, is that correct, sir? A. Yes, if you know what to order. I

would like to call your attention to the fact that in order to make that part, it doesn't exist. Only eighty percent of the parts in that machine are common. The other twenty parts are special parts.

Q. If I gave you a serial number? A. There are no serial numbers.

Q. Is the machine identified in any particular way? A. The machine is identified by serial number, but no serial numbers appear on the parts. You would have to designate the part and where it was going to be used. Then, we would go to the original computer tape and produce that part from that.

Q. In other words, if I gave you the serial number of that particular machine and told you my motor burned out, you could obtain for me a new motor? A. Yes, I could.

Q. And the same would be true with regard to the keys, is that correct? A. That is correct.

Q. And if a person is knowledgeable, with regard to the construction of a National Cash Register which **(Page 71)** had been prepared for foreign export, he could change those parts, is that correct, sir? A. He could.

And you say — you qualified your remark by the words "If he were competent." That would be — that is a very speculative situation.

Q. Yes, sir.

Now, you have testified with regard to what the competitive situation has been in the machine business. Is that correct, sir? A. Yes.

Q. Can you tell me, would an IBM man, by looking at a technical diagram, plan, or whatever you call it, of the National Cash Register be able to repair that machine? A. I would say absolutely not. This construction that we have is a very unique type of construction and this is one of the reasons why we are able to compete against equip-

ment all over the world. To my knowledge, this is the only mechanical device where the parts are completely made by a computer and designed.

Q. Are you telling me nobody but essentially a National Cash Register man could repair your machine? A. Or an NCR-trained man.

Q. All right. **(Page 72)**

Now, sir, you have also testified, I believe, that each machine is manufactured to specifications. Is that correct, sir? A. That is correct.

Q. And that the first step in that process is the putting together of the key mechanism, is that correct? A. That is normally the first function, yes, sir.

Q. All right.

Is there any part of the machine which can be put together prior to the receipt of an order? A. No.

Q. In other words, sir, you are telling me that on each order, you would go out and pick up whatever pieces of wire, whatever pieces of metal, whatever pieces of plastic, whatever else may be in the machine, pick each piece up separately, and at that point begin the construction of the machine? A. No, I didn't say that at all.

What I did say is that we have eighty percent of the parts are parts common. There are twenty percent of the parts — this is an estimate — that are specially built for the particular machine, so after we have manufactured the parts which are special construction, they are brought into the various assembly points and then they are merged with the parts common. **(Page 73)**

Q. All right, sir.

Now, with regard to the parts common, are they put into any type of — are they constructed or assembled in any way prior to report of an order? A. Absolutely.

Q. They are?

And are the separate component parts, the eighty percent that you mentioned, put into the form of a register? A. Oh, no. They are strictly component parts.

Q. And none of the components go together until you receive an order, is that correct? A. Absolutely correct. We do not build on speculation.

Q. Now, sir, you have also testified with regard to your monthly review of inventory, and therefore, I assume that you are familiar with your inventory. A. I am familiar, personally.

Q. Were you responsible for the filing of the return, the 1968 return? A. No, sir, I was not.

Q. Are you familiar with the inventory on Schedule 3 of that return, sir? A. I have never seen Schedule 3.

I might say that my responsibility is for the **(Page 74)** input that goes into the preparation of that form.

Q. In other words, you keep facts and statistics and so forth? A. Yes.

Q. Records — A. All records, unit and financial.

Q. Fine.

Then, can you tell me, sir, at what point do you place a finished machine into inventory? A. Yes. As soon as it is built.

Q. In other words, once all the component parts are put together, it enters your inventory? A. And packed, it has to pass final inspection. As soon as it is packed and ready for export shipment, it goes into our inventory. It is work in progress up to that time.

Q. So it is completely finished in the package and at that point it goes into merchandising inventory, is that correct? A. Into the International Division Marketing's inventory.

Q. All right, sir.

Now, once the machine has been placed in inventory, when do you remove it from inventory? At the time you send an invoice, the day the machine is **(Page 75)** marked with the name of the purchaser, the day the machines are shipped to the shipping area, or the day the machines are placed on board a commercial carrier? A. When the item has actually left the dock, the shipping dock, or the warehouse and a shipping document is received. That is the basis for relieving the physical inventory.

Q. And that is after the machine has been put on board a commercial carrier that the machine leaves your inventory? A. That is absolutely correct.

Q. Now, sir, in your direct testimony, you stated that there has been an occasion where you have received an order for machines and I think the reference was to the Congo? A. Yes.

Q. The machine was constructed and the order subsequently cancelled. Is that correct, sir? A. Yes.

Q. What became of the machines then, sir? A. As I mentioned to you, sir, the Congo was formerly a Belgian protectorate or confere, using the French language. Fortunately, there are several countries in the world that have a similar background. The Ivory Coast have the same one, culture is French, the **(Page 76)** language is French, and we were able to take these machines and apply them to a French area, at substantial cost to us, but we didn't have to change the language, the punctuation, and so forth.

Q. So it would be true to say you have received machines into your inventory which were received for international market? A. Yes, but I think I also said this is very rare occasion to have a cancellation. In other words, I had to search very hard to come up with this example where we had a cancellation.

Q. All right, sir.

Now, I believe you also testified — withdraw that.

Would this same situation, or might this same situation occurred during 1967, sir? A. Yes.

Q. In other words, during 1967, there may have been machines, or to your knowledge there may have been machines on the premises of NCR which were initially prepared for international market, but which NCR ended up keeping, is that correct, sir? A. Okay. I will agree with you if I can qualify what you have said.

No. 1, any machine that was built for the **(Page 77)** international always is shipped into international. To my knowledge, no piece of equipment ever built for the International Division has ever gone into any area other than the International Division.

Q. All right, sir.

With regard to the exhibits, can you tell me, sir, Exhibit No. 1, with the chart of business locations, can you tell me the date this chart was prepared? A. This is a fairly recent chart because we have just reorganized the Ivory Coast, and the Cameroons and Gabon. This has been revised within the last year.

Q. So this, in essence, isn't the same chart or same list of subsidiaries you had in 1967? A. No, our company is a dynamic company and changes are occurring constantly, but the changes are relatively minor.

Q. But it is not the same? A. No, sir, it is not.

Q. And with regard to Exhibit No. 2, sir, can you tell me the date that this item was prepared? A. Yes. August 28, 1970.

Q. And does that represent a machine that would have been sold during 1967? A. Yes.

It is a type of machine that would have been **(Page 78)** sold.

Q. But it does not represent a machine that was sold during 1967? A. No, this happens to be an order sold on August 28, 1970, but this model number would have been available.

Q. But this purchase order does not represent one of the pieces of equipment that would have been included in your merchandising inventory for the year 1967? A. No, this was simply used as an illustration.

Q. Okay. A. I think I did testify, though, that the forms were identical to the ones used in 1967.

Q. And can you tell me the date this Exhibit 3 was prepared, sir? A. No. Without going to the tracer number — I can take the tracer number and if the Examiner wishes, we can certainly give you that information, because everything reverts to a tracer number.

Q. But you cannot tell me when that sheet was prepared from the exhibit itself, can you, sir? A. No, I can't.

Q. So you would not know whether that was used during 1967 or not, whether those specifications were used. Is that correct? **(Page 79)** A. Yes.

You see, as I mentioned to you, this stock number is an international stock number and, again, this would probably have been available in 1967. It is an international number available for the International Division.

Q. Probably, but not sure, is that right? A. I would say it is a reasonable certainty.

Q. All right.

How about No. 4? Can you tell me when this was prepared? A. Let me see it.

Q. All right. A. Yes. I can tell you when actual production started. This, again, was analyzed on September 11, 1970, and production started shortly after that.

Q. Therefore, that represents a machine which was not constructed or assembled by NCR during 1967, is

that correct? A. That is correct. Again, this was simply drawn as an illustration of our procedure that is used in the International Division.

I think it might be helpful to the court to know why we have to do this. After three years, our hard records are reduced to microfilm. What we would **(Page 80)** have had to do was bring microfilm into court if they were necessary. We have them if they are necessary, but they are available, but they are not available in the hard copy form.

Q. Could you tell me as regards Exhibit No. 5 when that was prepared? A. Yes. This was prepared in 1968.

Q. And can you tell me, sir, whether that particular piece of equipment which is shown there would have been included in the merchandise and inventory on Schedule 3 of your 1968 return? A. No, that would be pure speculation. It would have been because of the date.

Q. But you don't know? A. No.

Q. Okay. A. But, again, it is typical, or illustrating export packing. That was the purpose of that exhibit.

Q. Exhibit No. 6. Can you tell me when this was prepared, sir? A. May I have the original?

Q. Yes. A. No, I cannot.

Q. So you don't know whether that was in existence in 1967 or not? **(Page 81)** A. No, but, again, because it has the international designation, we would assume that it was available at that time.

Q. But the exhibit itself does not show at any place the date of publication? A. No. Again, this is simply to illustrate how our machines are promoted in the language of the country.

Q. So you wouldn't know if that was used in 1967, would you? Yes or no. A. I would not know.

Q. Thank you, sir.

Now, with regard to Exhibit No. 7, the cash register, can you tell me when that particular cash register was constructed, sir? A. Yes. It came right off the line.

Q. It is a new one? A. Yes.

Q. Constructed in 1971? A. That is correct, sir.

Q. So it would not have been a part of the assessment in 1967, is that correct? A. That is correct. It is simply an example of a foreign built machine.

Q. All right, sir.

Can you tell me with regard to Exhibit No. 8 **(Page 82)** when that particular item was built, sir? A. No. There is no way that I could tell because this simply happens to be a component.

Q. And you don't even know if that was part of the assessment, is that correct? A. No, I would have no way of knowing. This is, again, an example of how our machines are built.

Q. Now, sir, you also testified to a large extent with regard to current in foreign countries. Can you tell me, sir, do any countries, foreign countries, to your knowledge, operate on the same current that the United States operates on? A. No, sir, most of the countries today are on a decimal system, but the coins are entirely different.

Q. Excuse me, I was speaking of electric current. A. Oh, electric current.

Q. Yes. A. Yes, other countries have sixty cycle, 110-120, but they are very rare, some have it.

Q. I see.

And, sir, since you have also testified to certain electrical things, can you tell me whether it would be possible to plug that particular machine into a converter of tips and then plug it into the register to have it operate? **(Page 83)** A. We could put a converting plug in here so it would go in, but you would still burn the motor out.

Q. In other words, there is — withdraw that. Mr. Stratigos: I have no further questions. Examiner Hendershot: I have no questions. Is there any redirect?

Mr. Slagle: Sir, I have been told Mr. Stratigos would like to take a recess at 11:30. If I could reserve my response to that question until after lunch, I would appreciate it very much.

Examiner Hendershot: Satisfactory with you?

Mr. Stratigos: Yes.

Examiner Hendershot: Very well, come back at 1:00 o'clock.

Mr. Slagle: Thank you.

(Noon recess.)

AFTERNOON SESSION

Examiner Hendershot: Do you have a witness?

Mr. Slagle: We have no further questions of Mr. Gillen.

Examiner Hendershot: Very well.

Do you have anything further of him, Mr. Stratigos?

Mr. Stratigos: No.

Mr. Slagle: At this point, I would like to move into evidence Appellant's Exhibits 1 through 8, except that I would like the Court's permission to withdraw Exhibit No. 4 and substitute a photographic copy therefor; to withdraw Exhibit No. 8 and have photogrpahic copies thereof, and Exhibit No. 7, and have photographic copies thereof.

Examiner Hendershot: Is there any objection to the withdrawal and substitution of photographs?

Mr. Stratigos: No.

Examiner Hendershot: Are there any objections to the exhibits?

Mr. Stratigos: Yes. I would like to object to all of them because none of them were part of the assessment, none of them were in existence in 1967, nor do they represent any of the materials subject to **(Page 85)** assessment. Consequently, I would object on the ground that they are irrelevant.

Examiner Hendershot: The objection will be overruled and they will be admitted as being representative of the items involved in the matters to be considered.

Mr. Slagle: Thank you, sir.

Whereupon, Appellant's Exhibits Nos. 1 through 8, inclusive, were received in evidence.

Examiner Hendershot: Do you have the photographs at the present time, or when are you going to do that?

Mr. Slagle: I have the photographs for No. 4, but not for No. 7 and No. 8. We have a photographer on the way over here. While Mr. Stratigos is here, we can perhaps agree as to what pictures should be used.

I would like to call as our next witness Mr. Charles Harman. **(Page 86)**

Charles R. Harman,

being first duly sworn as prescribed by law, was examined and testified as follows:

Direct Examination

By Mr. Slagle:

Q. Please state your name and address. A. Charles R. Harman, Main and K Streets, Dayton, Ohio, 45409.

Q. I take it that is your business address, Mr Harman? A. Yes.

Q. Is your residence also in Dayton? A. It is in Kettering, Ohio.

Q. By whom are you employed, Mr. Harman? A. By the International Division of The National Cash Register Company at Dayton, Ohio.

Q. Where are you employed? A. In —

Q. I am sorry, you said Dayton, Ohio. A. Yes, world headquarters.

Q. How long have you been employed by NCR? A. It will be sixteen years on October 22.

Q. What is your title or position with NCR? A. I am Manager of the International Accounting **(Page 87)** Department.

Q. And how long have you had that title or position? A. Since November 18, 1968.

Q. Before you were made Manager of the International Accounting, what was your title or position? A. I was Section Head of the International Accounting Section.

Q. How long did you have that position? A. I assumed that position on May 1, 1967.

Q. What is the distinction, now, between Section Head and Manager of International Accounting? A. Prior to November of 1968, the international accounting was handled by a section within another department and in November, 1968, they changed it and made it a separate department, rather than a section within a department.

Q. Please describe for the Board what your duties are as Manager of International Accounting? A. My duties are to supervise the preparation and maintenance of the accounting records for world headquarters office, reporting to the corporate headquarters on all of our international operations overseas.

Q. Are the records with respect to the international inventory maintained under your direction and **(Page 88)** supervision? A. Yes, they are.

Q. Is the international inventory assigned a separate account number? A. Yes, it is.

Q. What is that account number? A. 22841.

Q. Are the records with respect to the international inventory of dates preceding your appointment as Manager of the international accounting preserved under your direction, supervision, and control? A. Yes.

Q. During 1967, were you familiar with the manner in which the international inventory accounting records were maintained? A. Yes.

Q. Please describe for the Board what comprises the international inventory accounts. A. The international inventory account is composed of the cost of units built in the United States for export to our subsidiaries overseas.

Q. Now, are you familiar with what kind of machines comprise the international inventory account? A. Yes. This account is composed of cash registers, accounting machines, and EDP peripheral products. **(Page 89)**

Q. All right.

Have you caused to be made a schedule which shows the month end balance of the international inventory account for each month of calendar year 1967? A. Yes.

Q. Have you also caused those month end balances to be totalled and divided by twelve? A. Yes.

Q. Is National Cash Register on a fiscal or a calendar year? A. They are on a calendar year.

Q. Are the records used for compiling the month end balances currently available in this hearing room? A. Yes.

Q. Are those voluminous records? A. Yes.

Q. Were those records used for other corporate purposes, other than preparing the month end balances? A. Yes. These records become a part of the total corporate inventory, and they are included in reporting to top management, the Board of Directors, the stockhold-

ers, as well as the United States Securities and Exchange Commission.

Mr. Slagle: I will ask this be marked as Appellant's Exhibit No. 9 for identification. **(Page 90)**

Whereupon, Appellant's Exhibit No. 9 was marked for purposes of identification.

By Mr. Slagle:

Q. I hand you, Mr. Harman, what has been marked for identification as Exhibit No. 9 and ask you whether or not you can identify that. A. Yes.

Q. What is that, please? A. This is a typed copy of the ledger balances on Account No. 122841, representing international machines for the month endings during 1967.

Q. What does your schedule show to have been the total value of those machines warehoused in Ohio? A. The total of the month end balances is $22,892,450.

Q. Did you divide that figure by twelve? A. Yes.

Q. What was the result of that mathematical operation? A. That division gives you an average monthly balance of $1,907,705.

Q. Once again, what does that represent, please? A. This represents a cost of the products in our international inventory at the end of each month during **(Page 91)** the calendar year 1967.

Q. And is that international inventory warehoused only in Ohio? A. Yes, this is warehoused only in Ohio.

Mr. Slagle: I have no further questions.

Examiner Hendershot: Do you have any cross examination?

Mr. Stratigos: Yes.

Cross Examination

By Mr. Stratigos:

Q. With regard to Exhibit No. 9, can you tell me what the caption "Non-Ohio locations" means? A. Yes. These are units built and located in other states than Ohio. For example, our adding machines are built in Ithaca, New York.

Q. All right, then, those are transported to Ohio? A. No, these were shipped from the plant at Ithaca, New York. They would go to the port of embarkation in New York City from Ithaca, New York.

Q. And the caption "ledger balance," can you describe what that means, sir? A. Yes. This is a balance carried on the ledger of our company with this account number at the top, **(Page 92)** 122841.

Q. In other words, is this the beginning? This would be the ending inventory for each month. Is that correct, sir? A. Yes.

Q. This is a ledger balance on the dates as shown, for example, January 31, 1967, $2,220,094. Is that the ledger balance? A. Yes.

Q. How do you arrive at that figure? In other words, do you start with a beginning inventory of some type or what? A. Yes, start with a beginning balance. Units are added during the month that are completed, and units that are shipped are deleted from this balance.

Q. And since you have your records here, sir, could you perhaps show me the spot in your records where I could see the ending balance for August 31, 1967? A. Yes.

Q. Would you show it to me, then? A. Yes.

Q. Would you describe what you are showing? A. This is a copy made of the general ledger trial balance of inventories for the National Cash Register Company and

the description is "International **(Page 93)** finished machine inventory, warehouse, Account No. 22841," and the balance is $2,254,111.

Q. And what you have been reading from, sir, is the original document, or original record which recorded this figure? A. I am not sure I understand your question.

Q. In other words, sir, the material that you have just read to me from, is that the first time that it was recorded in any of the records of National Cash Register? A. Yes. This is the official journal ledger trial balance, and this is the first time this amount was included or reported. The date is stamped at the top indicating when that was reported.

Q. And, sir, this sum you gave me of $2,254,111, would that be derived from the preceding month's balance? Is that correct, sir? A. It would be a result of taking the previous month's balance and adding units that are completed and then deleting units that have been shipped.

Q. And can you show me in your records, sir, where we could correlate that to the prior months or follow through on that computation that you just mentioned? A. I believe I could, yes. **(Page 94)**

Q. Would you please do so? A. Yes, let me ask this. I can show you the trial balance for the previous month, but I did not bring here a copy of the actual ledger showing the balance — showing the entries.

Q. I would like to see the computation in your records that would take you from 7-31-67, ledger balance in the amount of $1,960,363 to the ledger balance at 8-31-67 showing the amount of $2,254,111. A. These are photocopies showing the individual units that made up the inventory at the end of July, and then the units that made up the inventory at the end of August, so

there has been — there are additional records on file at our corporate headquarters that would show detail. These are all on microfilm.

Q. In other words, you cannot take me — show me the accounting steps involved and the recording of the accounting steps involved from what you have with you today to take us from 7-31-67 and the 1,960,363 and the $2,220,094? A. I can describe these steps and I can show the units that make up the balances at the end of the accounting period.

Q. But you cannot show me your computations, is that correct, sir? **(Page 95)** A. What do you mean by computations?

Q. If I understood your prior testimony to be correct, sir, the way you came up with an end of the month balance would be to take the beginning balance. A. Okay. In other words, the unit added and the unit deleted.

Q. That is correct, sir. A. No. I do not have all those records. They are very voluminous, and we deal with approximately two to three thousand units going in and out during a month.

Q. Okay, sir.

Can you also show me in your records where the amount of $97,559 for the date of August 31, 1967, was derived? A. That amount is going to be composed of individual sheets in here that are added together.

Q. Did you run a tab of the individual sheets, sir? A. A tab was run by people who work under my supervision. I don't have that tab with me.

Q. And can you tell me, then, sir, from the records that you have with you here today in the condition they are in, you cannot verify from your records the

fact that $97,000 plus was the normal high volume for the month of August, 1967. Is that correct, sir? A. If I were to take these reports and pick out **(Page 96)** the individual ones that compose the $97,000, I should be able to add these and come up with that figure.

Q. Okay, sir.

Can you show me the slips that would go to comprise the sum of $97,559? A. Yes, I can show those to you. Those should be the sheets.

Q. Will you describe what you have just handed me, sir? A. These sheets that I handed you are showing adding machines that were built and were in the warehouse in Ithaca, New York, at the end of the accounting period that we are talking about here.

One machine is located in New York City, but these indicate the class and the model number as well as the serial number and the NCR reference number that has been assigned when this unit was built to fill an international order.

Q. All right, sir.

Now, from those sheets, can you show me or indicate the figures which would compose, when added together, the sum of $97,559? A. That should be the inventory value figures.

Q. May I see it? A. Yes. **(Page 97)**

Q. And which of the many figures on the page in that column would represent — which would go in to making up this? A. These amounts here, like the $652.

Q. All right. What else, sir? A. This $652 here, the $375, the $375, the $295, and that would appear on each sheet, $1,861, and those amounts.

Q. Is there a compilation of these numbers anywhere in your records, sir?

Mr. Slagle: Do you understand the concept "compilation"?

The Witness: I believe he means to indicate the total.

Mr. Stratigos: Yes.

Mr. Slagle: That is the exhibit.

Mr. Stratigos: I am asking about the one figure.

The Witness: That would not appear as an individual amount. In other words, it would be a total made of these individual amounts.

By Mr. Stratigos:

Q. For one particular amount, sir? Right? A. Yes.

Q. Would one month's figures be available on one (Page 98) sheet of paper or several sheets of paper? A. Several sheets of paper.

Q. Can you find the several, or do you have them all now? A. I believe these are the ones here.

Q. And these are copies — what physical shape — what is the physical object which the copies represent? Is it a sheet of paper, a ledger sheet of some sort? A. This is a sheet that was kept and microfilms. In other words, these copies were produced from microfilm records.

Q. And the copies, the items that were microfilmed were the corporate records of the company and they were the first time in the corporate records where these figures are recorded? A. Yes.

Q. In other words, you do them on IBM or NCR printouts? A. Yes, NCR printouts.

Q. All right, sir.

Now, you also testified that parts manufactured in Ithaca, New York, are shipped from Ithaca, New York. Is that right? A. That is my understanding.

Q. And you don't know this of your personal (Page 99) knowledge? A. In other words, they are built in Ithaca, New York, and the factory reports to me that they have

completed a unit for an international order number, and that that unit is located in Ithaca, New York.

Q. All right, sir.

Are you familiar with the method of transporting machines from the Dayton location? The commercial carrier used? A. No, I am not extremely familiar. I imagine they are — because of the closeness of the plant, they are probably handled by truck, and NCR owns trucks, and I imagine NCR trucks are used to move the equipment.

Q. In other words, the NCR puts the goods on their own trucks and transports them out of the state. Is that right sir? A. No. I thought the question was how they are moved from the plant to the warehouse.

Q. I see.

In other words, once the machines are completed and packaged, they are moved from the manufacturing area to the warehouse? A. That is my understanding, yes.

Q. And from there, they are taken and put on a carrier? **(Page 100)** A. Yes, commercial carrier.

Q. In other words, a truck, some trucking company takes them? A. Yes, it could be a truck or a train.

Q. And do you know where the items go once they have been moved by truck or train from the warehouse area? A. They would go to a port of embarkation to be loaded on a ship, if they are going by ocean freight.

Q. One other question. The warehouse and the manufacturing area are both in Dayton. Is that correct, sir? A. No.

Q. They are not? The warehouse is where, sir? A. It is located near Middletown, Ohio.

Q. Is Middletown in Montgomery County, do you know? A. I don't know.

Mr. Stratigos: I have no further questions.

Examiner Hendershot: I have no questions.

Is there any redirect?

Mr. Slagle: Yes.

Redirect Examination

By Mr. Slagle:

Q. In 1967, was the warehouse located in **(Page 101)** Montgomery County? A. Yes.

Mr. Slagle: No further questions.

Examiner Hendershot: You may be excused.

Mr. Slagle: I move admission into evidence of Appellant's Exhibit 9 for identification.

Examiner Hendershot: Is there any objection?

Mr. Stratigos: On the basis of the best evidence rule, I object. These are copies. The witness has not been able to tell me how he went from one balance to another balance which is a normal accounting procedure, and on that basis, I don't think I can accept this as the best evidence.

Examiner Hendershot: The objection will be overruled and it will be admitted.

The two folders which he had in his possession, he said, if you totaled the figure in a particular column, it would give you the $97,559, and if you deducted that from the other, you would get the figure in the last column.

These are here and he testified they were made as a printout from the microfilm of the original records which had been the original records the first time they appeared. They are admitted.

Mr. Slagle: Thank you, sir. **(Page 102)**

Whereupon, Appellant's Exhibit No. 9 was received in evidence.

Mr. Slagle: The Appellant rests.

Examiner Hendershot: The Appellant having rested, is there any testimony or evidence to be presented by the Appellee?

Mr. Stratigos: No, sir.

Examiner Hendershot: Very well, do you desire to file a brief?

Mr. Slagle: Yes, sir.

Examiner Hendershot: You may have —

Mr. Slagle: We would like to request thirty days from the time of receipt of the transcript, sir.

Examiner Hendershot: All right.

Well, we will make the Appellant's brief due on September 23 which should give you that period of time, I am sure.

Mr. Slagle: Thank you, sir.

Examiner Hendershot: The answer brief on October 7, and a reply brief, if any, by October 14.

Mr. Slagle: Thank you.

Mr. Stratigos: Thank you.

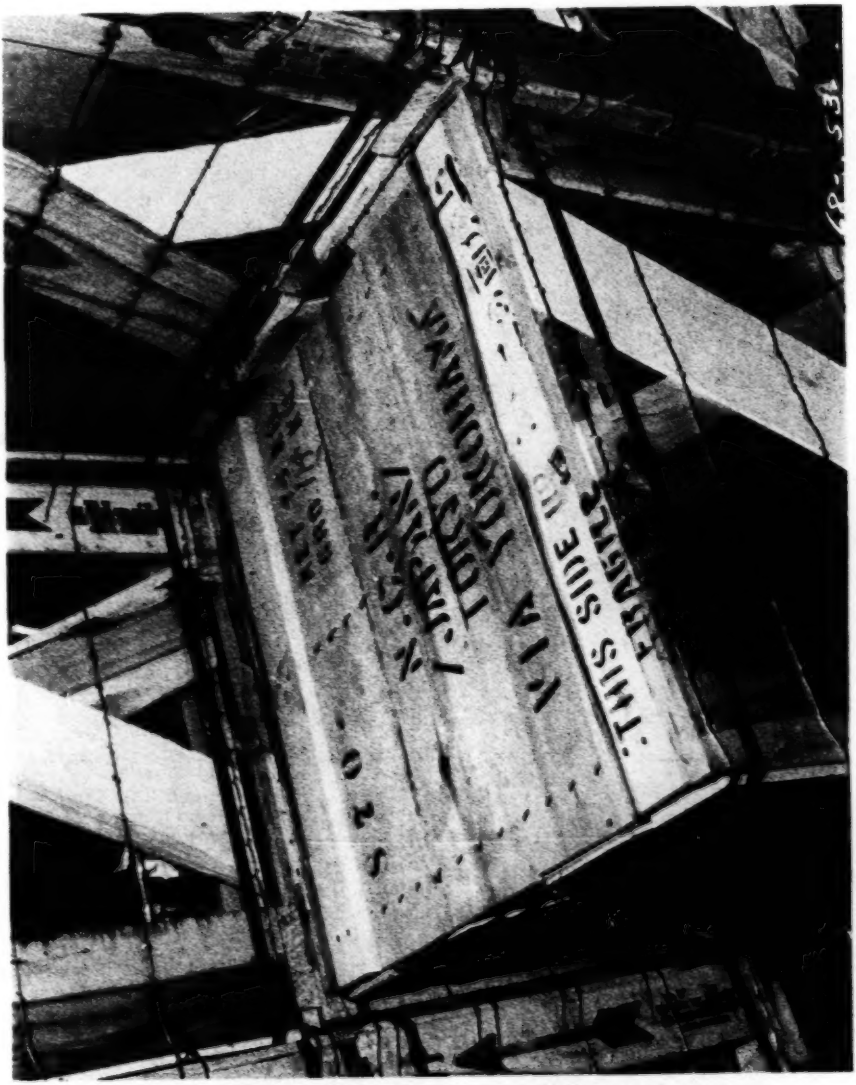
Examiner Hendershot: Thank you, gentlemen.

(The hearing adjourned at 1:35 p.m.) **(Page 103)**

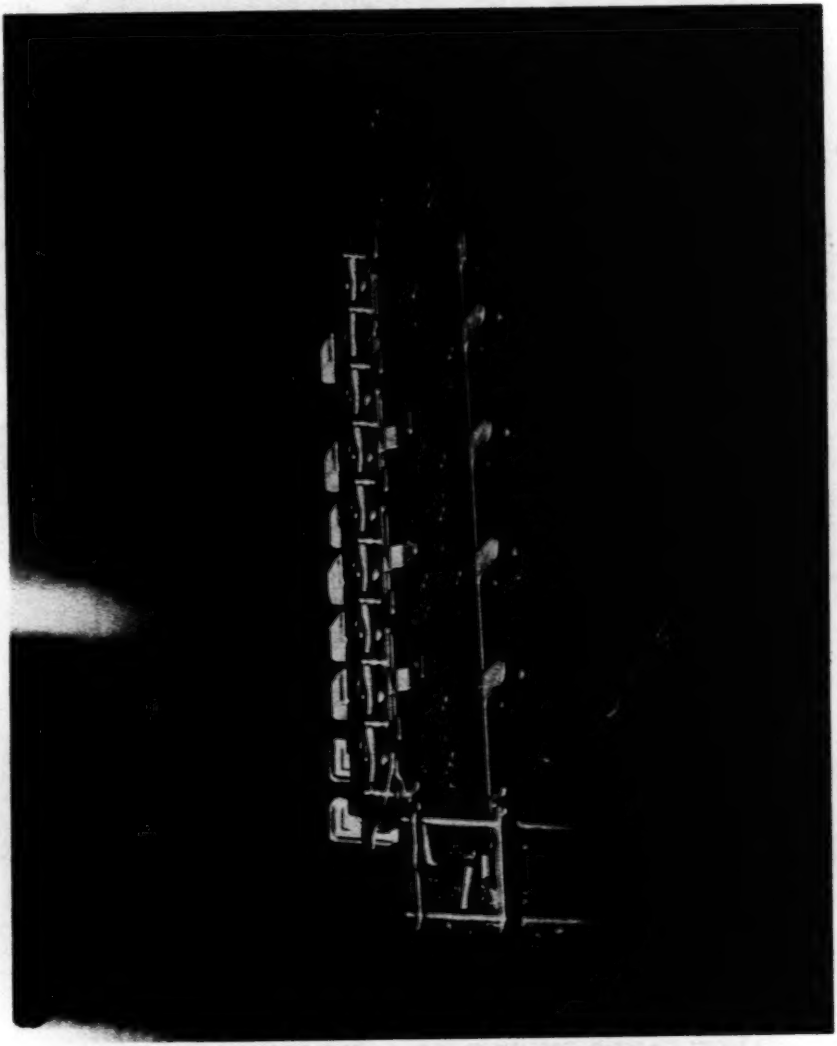
CERTIFICATE

I, Edwin H. Hammock, the undersigned, hereby certifies that the foregoing is a true and correct transcription of the proceedings before the Board of Tax Appeals, on the date indicated, as reported by me in shorthand and transcribed by me or under my supervision.

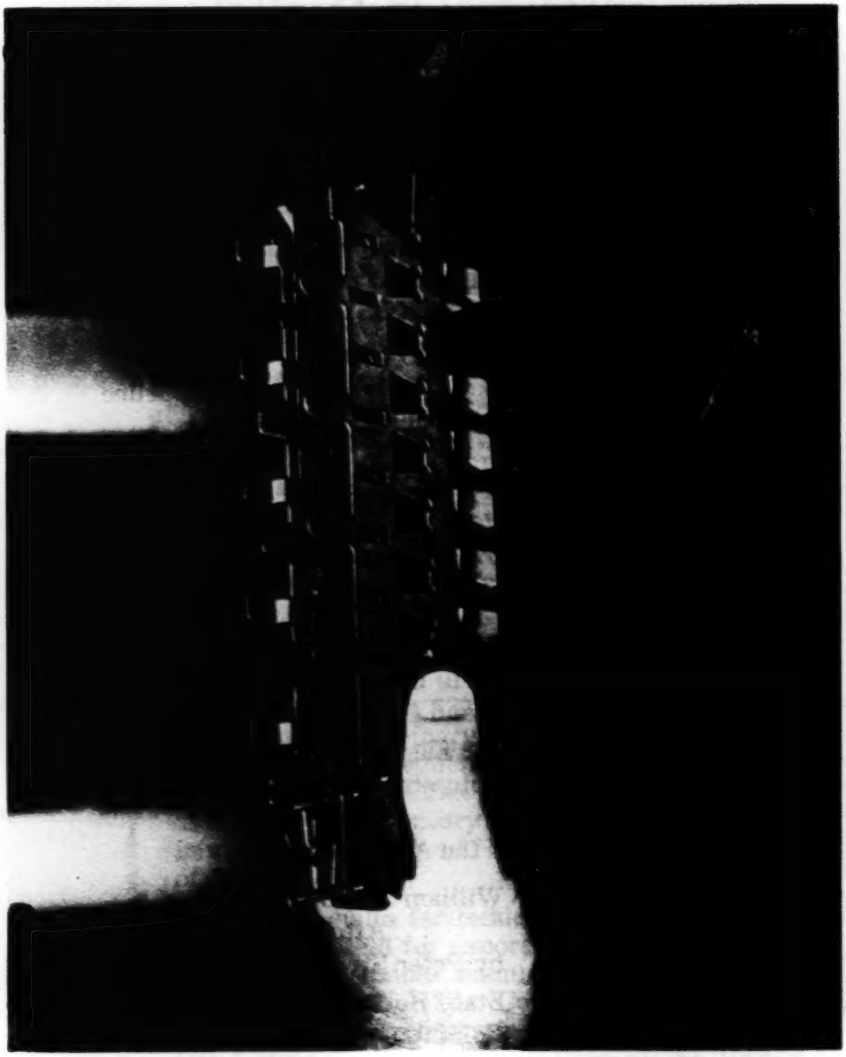
Edwin H. Hammock.



APPELLANT'S EXHIBIT NO. 5 (EXPORT PACKAGING)



PHOTOGRAPH OF APPELLANT'S EXHIBIT NO. 8



PHOTOGRAPH OF APPELLANT'S EXHIBIT NO. 8

BEFORE THE BOARD OF TAX APPEALS
DEPARTMENT OF TAXATION
STATE OF OHIO

THE NATIONAL CASH REGISTER COMPANY
Main and K Streets
Dayton, Ohio 45409

Appellant

vs.

ROBERT J. KOSYDAR
Tax Commissioner of Ohio

Appellee

No. 71-02-0330

PERSONAL PROPERTY TAX

(Tangible)

APPEARANCES: For the Appellant:

Dargusch and Day
by L. Orin Slagle, Jr.
and Roger Day
218 East State Street
Columbus, Ohio 43215

For the Appellee:

William J. Brown,
Attorney General
by Peter Stratigos, Assistant
State House Annex
Columbus, Ohio 43215

This cause and matter came on to be considered by the Board of Tax Appeals upon a notice of appeal filed herein by the above named appellant under date of February 23, 1971, from a final assessment certificate of valuation on Inter County Corporation Tangible Personal Property dated January 29, 1971, for the tax return year 1968, in which a deficiency of $1,477,700 is shown for Dayton Taxing District, Montgomery County, Ohio.

Appellant filed its notice of appeal from said assessment and in pertinent part said notice reads as follows:

> "Pursuant to Section 5715.02, of the Revised Code of Ohio, The National Cash Register Company, hereinafter "NCR", gives notice of its appeal to the Board of Tax Appeals, from a Final Assessment Certificate of Valuation for Montgomery County, issued with respect to Ohio Personal Property tax return year 1968, and bearing the date of January 29, 1971. A true and correct copy of the Certificate is attached hereto, made a part hereof, and incorporated by specific reference. Such Certificate is erroneous, in that it:

(1) Disallows a claim for reduction from Schedule 3, of idle, obsolete and unsaleable inventory (identified as Account No. 322530). Such inventory consists of used machinery, originally manufactured by NCR, and subsequently returned to it for various reasons. The Tax Commissioner erred by assessing such inventory in excess of its true value in money. See Section 5711.18 of the Revised Code of Ohio.

(2) Disallows a claim for reduction from Schedule 3, of inventory held for export. Such inventory consists of new machines, manufactured by NCR solely for export. The Tax Commissioner erred by assessing such inventory in violation of Article I, §10, Clause 2, of the Constitution of the United States.

> Because of the errors stated above, NCR requests that the Commissioner's determinations be reversed as unreasonable and unlawful, and that final judgment be entered in its favor."

At the hearing before the Board of Tax Appeals, appellant abandoned its claim under item (1) of its notice of appeal leaving only the item (2) in contention. Both items 1 and 2 began as claims for deduction from book value in which the claim for deduction for export inventory which was added back by the agent for the Tax Commissioner amounted to $2,159,035 at 50% listed value for $1,079,520.

The matter was submitted to the Board of Tax Appeals upon the notice of appeal, the statutory transcript furnished by the Tax Commissioner, the testimony and evidence presented to the Board of Tax Appeals at a hearing in Columbus, Ohio, on August 5, 1971, and the briefs supplied by counsel.

For many years, the appellant has engaged in the manufacture of cash registers, accounting machines and electronic data processing systems, which it markets throughout the United States and in 120 countries abroad. Its home offices, main producing facility and warehouse are located in Dayton, Ohio. In marketing its products, NCR has two Main divisions. One is known as domestic marketing and the other is known as international marketing. Although the two divisions are not separately incorporated, there is total separation of the international operation of NCR from its domestic operations. Each division is headed up by a group Vice President, who reports directly to the President of the company. Each is housed in a separate facility and has its own accounting staff and sales force. With respect to inventory, each division has its own record control system and products that

are packaged for export from the plant or warehouse have identifiable packaging from products packaged for domestic delivery.

The only inventories of items destined for exportation, which NCR maintained in Ohio in 1967 were located in Dayton, Ohio. These inventories consisted of cash registers, accounting machines and electronic data processing equipment, all of which had been contracted for purchase by foreign buyers prior to manufacture.

Each machine is custom built to accommodate commercial peculiarities of the particular country to which it is to be shipped and of the individual consumer.

The ultimate objective of an NCR salesman when calling on a foreign customer is to determine from a detailed survey of the customer's business if there is any need for an NCR product. Once a need has been established, the salesman decides how best to build an NCR product to meet the customer's individual requirements in that foreign country.

If an order is placed, it is sent to the factory at Dayton, Ohio, where the product is custom-built for the foreign buyer. NCR has no inventory of products already constructed to meet an order when it arrives at Dayton.

Each order is accompanied by a building instruction sheet when it arrives at Dayton on which is a model number followed by a series of numbers. The model number indicates the country to which the product is to be shipped and the following series of numbers describes in code the individual functions the machine is to perform. The building instructions sheet is prepared by the individual salesman in the foreign country with the assistance of technical people in that country. No order can be accepted by NCR without this sheet.

When a foreign order along with the necessary accom-

panying documents is received by NCR, a factory work order card is prepared. This card contains the necessary production language to enable the factory to build the machine to the exact specifications of the customer.

After a machine has been produced pursuant to the customer's specifications, it goes to final inspection for determination that it, in fact, has been built as specified on the factory work order card. The machine is then packed for export shipment.

Machines packed for export shipment are readily distinguished from those packed for domestic shipment. Most of the equipment sold in the United States is packaged in cardboard boxes; however, export equipment is sealed in very heavy plastic moistureproof covers and packed in wood crates, which are reinforced by wire bands and steel straps. In addition, the machine's foreign destination is stenciled on the side of the crate.

The crated machines are then taken to an NCR warehouse to await shipment. In 1967, the international inventory was housed in Dayton, Ohio. There are several reasons why NCR maintains an international inventory. Many countries will not allow a partial shipment or, often a country has a balance-of-payments problem and will not issue an import license until a later date. In other cases, a letter of credit may be held up or necessary transportation may not be available.

It was the opinion of appellant's witness that due to their unique construction and special adaptation for foreign use, these machines are not salesable domestically, that an item destined for an export customer and exported by NCR never finds its way back into the United States. NCR has had no machine sold to a foreign purchaser which has been returned.

The testimony was that a cash register destined to be exported to Japan, for example, would not be saleable in the United States. The keyboard is used to record yen, rather than dollars. The decimal point is after the third column, rather than the second. Because there are 350 yen to a dollar, the machine is capable to recording a transaction of 99,999,999 and that a machine with such a high capacity has no application in this country. Furthermore, the keys, printing mechanism, and indicators appearing in the window are in Chinese characters. The motor and electrical system is designed specifically for Japan. Japan uses 100 volt current, whereas 110-120 is standard in the United States. If a machine designed for Japan were plugged into U. S. current, the motor would ultimately burn out. Many machines exported to Japan are designed to run on 50 rather than the 60 cycle current employed in the United States. If a machine designed to run on 50 cycle current were plugged into a current with 60 cycles, you would get a slow operation, which would make the machine add wrong because of the change in cycling time. The same is true of all NCR export products including accounting machines and electronic data processing systems.

Many machines are equipped for special functions such as automatic change making. Such a mechanism will not operate in the United States because the attached dispenser is denominated for foreign coins, which are entirely different from the denomination of coins in this country.

The testimony was that more than the mere mechanics makes an export machine unsaleable in the United States. In the United States and in the retailing field, the marketing philosophy is different from that in most countries throughout the world. The techniques here are perhaps

ten years ahead of most countries in Europe at the moment. For example, many domestic consumers demand automatic reorder systems, which feed data from the cash register into a computer network. These systems would be unavailable on export models.

The testimony further was that an NCR export product could not *economically* be converted by NCR for sale domestically. Such conversion would require the machine to be sold at a price which could not be competitive with a machine that was originally manufactured and produced for domestic consumption.

The United States Constitution, Article I, Section 10, Clause 2 provides that:

> "No State shall without the consent of Congress, lay any Imports or duties on Imports or Exports, except what may be absolutely necessary for executing its inspection laws ***"

The tax herein involved is an ad valorem tax levied upon all personal property located and used in business in this state.

The very able briefs filed by counsel discuss at length the elements necessary for personal property to acquire the status of an export. Many cases are cited and considered but all are other than Ohio cases. Most are Federal cases and through all of these cases run two judicially articulated criteria which must exist concurrently for personal property to be exempt from state taxation as an export:

(1) the property must have started on its journey to a foreign destination

(2) the property must be irrevocably committed to export.

It is appellant's contention that actually only the second is necessary but that if the first is required then its movement to its warehouse is sufficient.

With this the Board of Tax Appeals does not agree. From a careful study of the cases cited it is clear that there are many variables considered by the Courts as to when the movement begins but nowhere is it said that the second test alone is sufficient.

Giving consideration to the facts, the case law, the constitutions, statutes and the very able briefs and arguments of counsel, it is the decision of the Board of Tax Appeals that the final assessment certificate of valuation herein must be, and hereby is, affirmed.

I hereby certify the foregoing to be a true and correct copy of the action of the Board of Tax Appeals of the Department of Taxation, this day taken, with respect to the above matter.

ARTHUR W. MOORE, Secretary

THE NATIONAL CASH REGISTER CO., APPELLANT, *v.* KOSYDAR, TAX COMMR., APPELLEE.

[Cite as National Cash Register Co. v. Kosydar (1973), 35 Ohio St. 2d 166.]

Taxation — Tangible personal property — Exemption — Section 10, Article I, Constitution—Prohibition against state tax on exports—Test—Machines designed and built exclusively for foreign consumers—Exempt as "exports."

(No. 72-479—Decided July 11, 1973.)

APPEAL FROM THE BOARD OF TAX APPEALS

This is an appeal by The National Cash Register Company from a decision of the Board of Tax Appeals, the effect of which was the upholding of a tax assessment made by the Tax Commissioner with respect to the company's 1968 inter-county corporation return of taxable property.

In that return, and before the Board of Tax Appeals, National Cash Register (NCR) contended that certain of its machines had, at the time they were included in the company's taxable inventory and their value assessed for tax purposes by the Tax Commissioner, become irrevocably committed to exportation and had commenced the journey which would lead necessarily and undeniably to their exportation from the United States. Therefore, NCR contended, the inclusion of the machines in the taxable inventory pursuant to Ohio personal property law was a violation of Section 10, Clause 2 of Article I of the United States Constitution, the Import-Export Clause.

NCR, a Maryland corporation, has its world headquarters, main production facility and warehouse in Dayton, Ohio. For many years it has engaged in the manufacture of cash registers, accounting machines and electronic data processing systems, which it markets throughout the United States and in 120 foreign countries. For marketing purposes, the company is organized into two major divisions, domestic and international, each totally separated from the other. The international marketing division has its own chief executive, a "group vice-president" responsible only to the president of NCR, and its own accounting staff, sales force, product line, and physical facility. With respect to inventory, the division maintains its own record control system and packaging processes for its products.

At the hearing before the Board of Tax Appeals, the international division's vice-president described the general marketing process, as follows:

"* * * The first thing that the salesman would have to do, of course, is to get the customer's interest and secure the permission of the customer to discuss his business with him, with the ultimate objective of being able to make a detailed survey of the customer's business to find out if there was a need for our product.

"Once that need had been established, the salesman would decide how best to take an NCR product * * * and build that product to meet the customer's individual requirements * * * "

He testified further that if an order is placed it is sent to the factory in Dayton, where the product is then manufactured. NCR maintains no inventory of machines which are available to meet incoming orders from foreign customers. An order form from a foreign customer will indicate the class of machine and the individual model to be

purchased, the basic construction of the individual machines, the number of machines ordered, their destination, and the terms of the sale. Each order is accompanied by a building instruction sheet, prepared by the individual salesman in the foreign country with the assistance of technical people in that country, which specifies, primarily, the indivdual functions the machines are to peform according to the peculiar commercial and individual requirements of the customer. No order is accepted in Dayton without a building instruction sheet attached to it.

When the order and the building instruction sheet are received by NCR, a factory work order is prepared. The work order contains the necessary production language to enable the factory to build the machine to the exact specifications of the customer. A work order covers every machine manufactured. After a machine has been produced it goes to final inspection for determination that it has been built to specification, and finally is packed and crated to withstand the unusual rigors of export shipment.

The crated machines are then taken to an NCR warehouse in Dayton to await shipment. It was the Tax Commissioner's assessment of the items in that international inventory as of December 31, 1967, tax lien date, which gave rise to this action.

The record reveals that NCR maintains an international inventory for several reasons. Many countries will not allow a partial shipment, so when a large order has been placed and the production cycle is only two or three machines a day, the machines must be consolidated and stored prior to shipment. In the electronic data processing area, the component parts of a system may be produced at several different locations, which also necessitates a con-

solidation prior to shipment. In many instances, NCR is unable to obtain an importation license from the country to which the machines are to be shipped at the time the shipment is ready, even though the country of destination may have agreed to supply one at the time the order was placed. Importation licenses are usually tied to the foreign exchange situation in the particular country, which is often impossible to predict. In one instance, a license was delayed for three years due to a balance-of-payments problem. Related difficulties involve local fluctuations in currency value, availability of foreign currency and unforeseen delays in obtaining letters of credit. The pitfalls in the operation of the international division are numerous, complicated and completely beyond the ability of NCR to predict with any degree of consistency.

The uncontroverted record establishes that no piece of equipment built for the international division has ever gone into any area other than the international division; that there is no recorded instance where a machine sold to a foreign purchaser was returned; and that no exported item has ever found its way back into the United States market. Likewise, it was uncontroverted that due to unique construction and special adaptation for foreign use, machines marketed by the international division were not merely noncompetitive in the United States market, but were not saleable there. The reasons for this include complex technical variations in keyboards, wiring, detents and motors; and, specifically as to cash registers, variations in dispensers, the amount of characters on the keys and in the windows and in the decimal point placement. There was evidence that electrical current varied from country to country, even in parts of the same country, in terms of standard voltage and cycles and, in some instances, as between AC and DC current. There

was also testimony that the degree of merchandising control in the retailing field in the United States was technically superior to that of other countries by ten years, making machines produced for foreign customers obsolete in the domestic market.

Further, an NCR export product could not economically be converted for domestic sale. Against the company's profit margin of approximately five percent per unit, the changeover cost would be approximately 16 percent per unit, rendering the possibility of a changeover totally unfeasible.

Upon the basis of all those factors, NCR urged that the machinery in the international inventory enjoyed an export status and should not be taxed. However, based mainly upon federal cases, the Board of Tax Appeals in its decision said:

"* * * two judicially articulated criteria * * * must exist concurrently for personal property to be exempt from state taxation as an export:

"(1) the property must have started on its journey to a foreign destination

"(2) the property must be irrevocably committed to export."

Unable to find any evidence that NCR had met the first test, or that compliance with the second test alone was enough, the board affirmed the assessment order with respect to the international inventory.

The cause is now before this court pursuant to an appeal as a matter of right by NCR.

Messrs. Dargusch & Day and Mr. Roger F. Day, for appellant.

Mr. William J. Brown, attorney general, *Mrs. Maryann B. Gall* and *Mr. Peter Stratigos,* for appellee.

PER CURIAM

Section 10, Clause 2 of Article I of the United States Constitution provides: "No state shall, without the consent of the Congress lay any imposts or duties on imports or exports * * *." This case requires us to determine whether the machines in NCR's international inventory, which were assessed by the Tax Commissioner, were "exports" within the meaning of that clause.

In answering that question, the Board of Tax Appeals applied a mechanistic, two-fold formula which it culled from phrases found in the leading "export" cases. *Coe* v. *Errol* (1886), 116 U. S. 517; *A. G. Spalding & Bros.* v. *Edwards* (1923), 262 U. S. 66; *Richfield Oil Corp.* v. *State Board of Equalization* (1946), 329 U. S. 69; *Joy Oil Co.* v. *State Tax Commission* (1949), 337 U. S. 286; *Empresa Siderurgica* v. *County of Merced* (1949), 337 U. S. 154; *Hugo Neu Corp.* v. *County of Los Angeles* (1970), 7 Cal. App. 3d 21, 86 Cal. Rptr. 332; *Rice Growers' Assn. of California* v. *County of Yolo* (1971), 17 Cal. App. 3d 227, 94 Cal. Rptr. 847; *Cargill of California* v. *County of Yolo* (1972), 26 Cal. App. 3d 704, 103 Cal. Rptr. 257. A majority of this court, however, is of the opinion that the instant case is particularly ill-fitted for a mechanical disposition.

The cases from which the two criteria for immunity from taxation were extrapolated by the board embraced products which were completely fungible or were viewed as such. In that situation, we can agree that nothing less than delivery to a carrier, marking the commencement of movement in the export stream, will suffice to guarantee that the process of exportation has been irreversibly initiated. This case, on the other hand, involves cash registers, accounting machines, and electronic data processing systems which have been ordered, designed and built exclusively to serve the peculiar needs of specific

foreign consumers. It is uncontradicted on the record that, in every material respect, the machines involved herein are useless in the domestic market and never find their way there. Of all the cases examined, we were unable to find any situation where the "certainty of export" has been more clearly demonstrated than in this case*; the degree of certainty here exemplified is fully equivalent to that which attends the delivery of fungible goods to a carrier for the start of a journey to a foreign destination.

The decision of the Board of Tax Appeals is reversed, except as to that portion of the assessment which relates to items destined for sale in the possessions or territories of the United States. As to such latter assessment, the decision of the board is affirmed.

DECISION REVERSED IN PART AND AFFIRMED IN PART

HERBERT, CORRIGAN, STERN, CELEBREZZE and W. BROWN, JJ., concur.

O'NEILL, C. J., and P. BROWN, J., dissent.

O'NEILL, C. J., dissenting. I dissent on authority of R. C. 5709.01 and the cases decided by the United States Supreme Court involving Section 10, Clause 2 of Article I of the United States Constitution. See *Coe* v. *Errol* (1886), 116 U. S. 517; *A. G. Spalding & Bros.* v. *Edwards* (1923), 262 U. S. 66; *Richfield Oil Corp.* v. *State Board of*

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*Of perhaps equal certainty was the DDT in *Montrose Chemical Corp.* v. *County of Los Angeles* (1966), 243 Cal. App. 2d 300, 52 Cal. Rptr. 209 (cert. den. 386 U.S. 1004). But, see, *Rice Grower's Assn. of California* v. *County of Yolo* (1971), 17 Cal. App. 3d 227, 94 Cal. Rptr. 847.

Equalization (1946), 329 U. S. 69; *Joy Oil Co.* v. *State Tax Commission* (1949), 337 U. S. 286; *Empresa Siderurgica* v. *County of Merced* (1949), 337 U. S. 154.

R. C. 5709.01 provides, in pertinent part:

"* * * *All personal property located* and used in business *in this state* * * * [is] *subject to taxation* * * *." (Emphasis added.)

This tax applies to all property manufactured to order and "then taken to * * * [a] warehouse * * * to await shipment," whether that shipment is to be made to Columbus, Buffalo, San Francisco, or a foreign country.

The revenue raised by the tax imposed upon this property is used in accordance with law to pay for the local services of government by counties, municipalties, townships and health districts and for the operation of schools provided for the benefit of all private and corporate businesses and the citizens of the local communities in which those businesses are located.

The appellant in this case understandably would like to be relieved of its share of the taxes for the support of schools and local government upon its inventory awaiting shipment. Appellant contends that it is in a different position from all other manufacturers of products for both domestic and foreign shipment.

The only basis on which the appellant can claim immunity from this tax on its personal property inventory "stored prior to shipment" or "taken to an NCR warehouse in Dayton to await shipment" is that the tax imposed by the General Assembly of Ohio upon all personal property is unconstitutional under the provisions of Section 10, Clause 2 of Article I of the United States Constitution as to appellant's property, even though it is valid as to all other manufacturers' property awaiting shipment in warehouses.

No case decided by the United States Supreme Court supports appellant's position. In my opinion, it is easy to determine why this is true.

The sole issue in this case is: When does the exemption from taxation provided in the export-import clause of the United States Constitution attach to the goods?

The controlling rule of law in this regard is succinctly stated by Mr. Justice Frankfurter in *Joy Oil Co.* v. *State Tax Comm.* (1949), 337 U. S. 286, at page 288, as follows:

"The Export-Import Clause was meant to confer immunity from local taxation upon property being exported, not to relieve property eventually to be exported from its share of the cost of local services. See *Coe* v. *Errol*, 116 U. S. 517, 527-28."

As Justice Frankfurter said in *Joy Oil Co., supra*:

"The circumstances which tended, at the time when the tax was assessed, to establish petitioner's intent to export the gasoline and the fact that the gasoline was eventually exported are not enough, by themselves, to confer immunity from local taxation. See, *e. g.*, *Cornell* v. *Coyne*, 192 U. S. 418; *Empresa Siderurgica* v. *County of Merced*, 337 U. S. 154."

So in the instant case, the circumstances which tended, at the time the tax was assessed, to establish (1) petitioner's intent to export, (2) the certainty of export if a profit was to be made from the manufacture of the property, and (3) the fact that all similar property manufactured by the company in the past had been exported eventually are not enough, by themselves, to confer immunity from local taxation.

The appellant places emphasis upon the argument that many of the United States Supreme Court cases holding goods not immune from local taxes have so held because

of possible diversion of the goods to the domestic market. It is asserted that those cases involved fungible goods, while the machines in the instant case, because of their character, were not saleable in the domestic market, were not fungible, and were not divertible, and, therefore, should be exempt from local taxation. Such a fungible-goods argument may have some validity once the process of exportation has started and the exemption has attached to the goods. Then and only then, under the cases, does the question arise as to the certainty of the goods completing the process and reaching the foreign destination as against the possibility of being diverted to the domestic market. See, *e. g., Joy Oil Co., supra; Empresa Siderurgica, supra.* However, the fungible-goods argument is not relevant to the question presented in the instant case.

The factual question of fungible or nonfungible goods plays no part in a determination of when the process of exportation begins, *i. e.*, when the exemption initially attaches. See *A. G. Spalding & Bros. v. Edwards* (1923), 262 U. S. 66.

The intent to export clearly is not sufficient to commence that process and change a machine stored awaiting shipment into an export. *E. g., Joy Oil Co., supra.* The certainty of export is not sufficient to convert property in a warehouse awaiting shipment to an export. *Empresa Siderurgica, supra* (cement plant parts crated awaiting shipment overseas held not exports and not immune from local taxes). The fact that the machines were made to order for a foreign market or that such machines have always been shipped overseas eventually does not make a product stored in a warehouse awaiting shipment an export exempt from taxation. *Cf. Coe* v. *Errol, supra; Hugo Neu Corp.* v. *County of Los Angeles* (1970), 7 Cal. App. 3d 21, 86 Cal. Reptr. 332.

If the above were true, the argument could be made with equal logic and force that all property stored in the factory awaiting manufacture of a machine, or certainly all property in process of manufacture into a machine, is exempt. No doubt the General Assembly could exempt such property from local taxes for local services, but it has not done so.

Argument is advanced by the appellant, in brief, that a change in the law extending the exemption from taxes would serve a useful purpose with regard to national monetary or trade policy. For this court to ground its decision upon such unexpressed reasons is contrary to the settled law that acts of the General Assembly are presumed to be constitutional unless clearly in violation of constitutional provisions. R. C. 1.47(A); *State, ex rel. Dickman,* v. *Defenbacher* (1955), 164 Ohio St. 142, 128 N. E. 2d 59.

The machines in this case meet the requirement of goods destined for foreign commerce. They were ordered by a foreign customer. Once the process of exportation is commenced, a persuasive argument could be made that they are certain to be exported and, therefore, exempt.

However, at the time the tax was assessed the exemption had not attached to the articles as required by law because they were simply stored awaiting shipment—title and possession was in the appellant, payment had not been made, no export license issued, no letter of credit authorized, and the machines were in complete control of appellant; but, most important, there was no movement of goods, no shipment, no process of exportation. There is no certainty of export. The record establishes that some machines have remained stored in the warehouse awaiting shipment for three years. The orders could be cancelled, the export license might never issue,

the financing may fail to materialize, the machines could be destroyed, dismantled or sold for scrap. These machines were no different from any other mass of goods in a warehouse awaiting shipment. They were not an export exempt from local taxes until they moved—in plain language, until they were shipped or at least moved to or into a means of transportation. *Empresa Siderurgica* v. *County of Merced, supra; Joy Oil Co., supra.*

The objection is made that this is a "mechanistic" concept. (See dissenting opinion in *Empresa Siderurgica, supra.*) I can not agree. The court has held that the exemption attaches to the articles or the goods. The time at which it attaches must be established. *A G. Spalding & Bros.* v. *Edwards, supra.* The rule expressed by the majority fails to deal with this fundamental question. It leaves vague and unanswered the real question in the case which is: At what point did the machines become "exports" exempt under the Export-Import Clause?

P. BROWN, J., concurs in the foregoing dissenting opinion.